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Annual Report of The Attorney General of The United States

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**Annual Report
of the
Attorney General
of the
United States**

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Office of the Attorney General
Washington, D. C. 20530

TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE
UNITED STATES OF AMERICA IN CONGRESS ASSEMBLED:

I am pleased to report on the business of the Department of
Justice for Fiscal Year 1985.

This report notes major accomplishments of the Department
and provides detailed accounts of the activities of its offices,
boards, divisions, and bureaus.

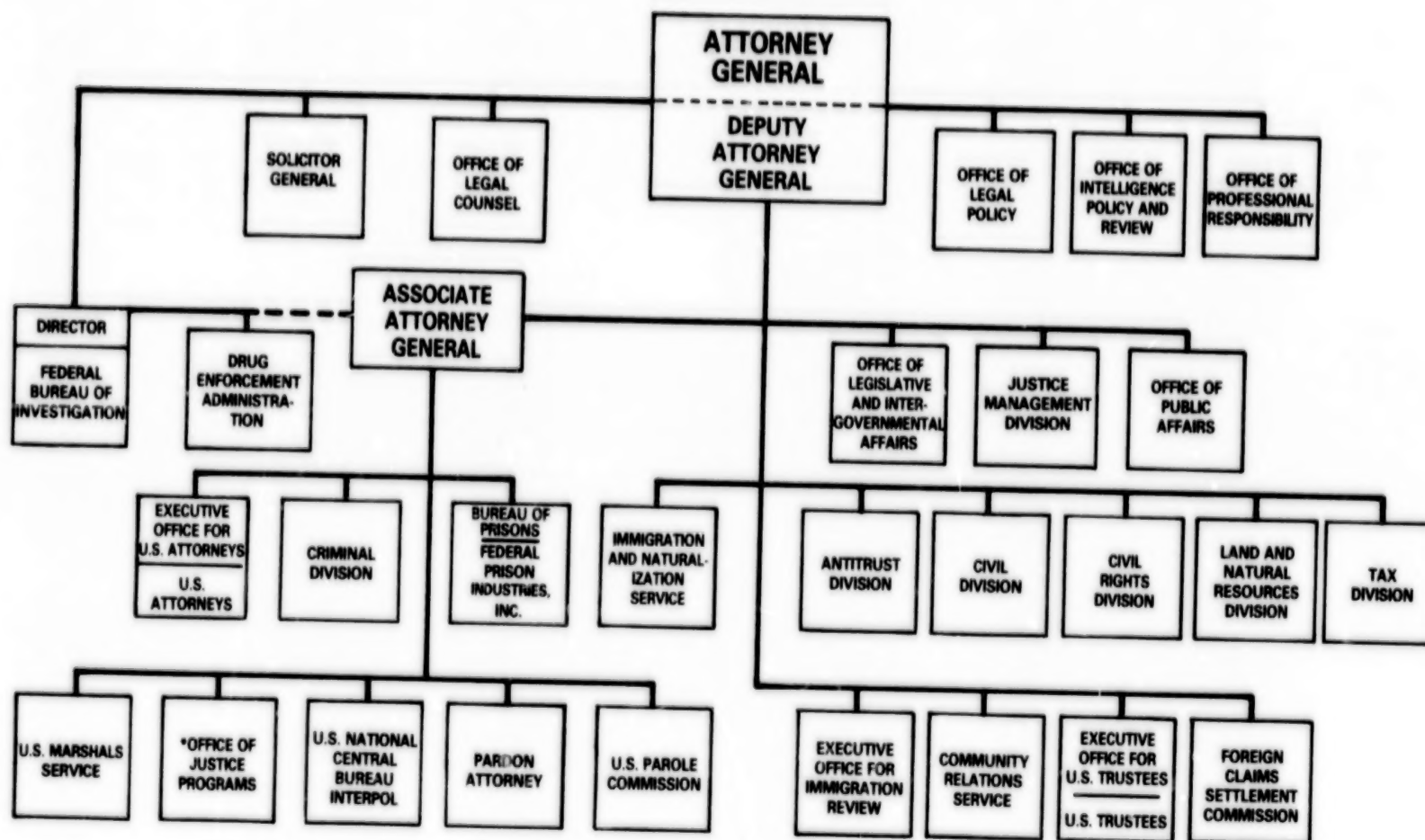
I hope it will provide additional insight into the Department's
activities and help Members of Congress assess the Department's
performance in executing the laws of the United States.

Respectfully submitted,

Edwin Meese III

EDWIN MEESE III
Attorney General

DEPARTMENT OF JUSTICE



*FORMERLY OFFICE OF JUSTICE ASSISTANCE, RESEARCH, AND STATISTICS

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Offices of the Attorney General, Deputy Attorney General and Associate Attorney General

Edwin Meese III
Attorney General

D. Lowell Jensen
Deputy Attorney General

Vacant
Associate Attorney General

Three principal offices in the Department of Justice provide executive direction for the activities of the Department: the Offices of the Attorney General, the Deputy Attorney General, and the Associate Attorney General.

Office of the Attorney General

Edwin Meese III became the seventy-fifth Attorney General of the United States in February 1985, succeeding William French Smith. He came to the post from the White House, where he had served as Counselor to President Reagan since Inauguration Day in 1981.

The position of Attorney General was created by the Judiciary Act of 1789. In June 1870, Congress enacted a law establishing the Department of Justice and installing the Attorney General as its head. The Act gave the Attorney General direction and control of U.S. Attorneys and all other counsel employed on behalf of the United States. The Act also vested in the Attorney General supervisory power over the accounts of U.S. Attorneys, U.S. Marshals, clerks, and other officers of the federal courts. A series of legislative enactments since 1870 has shaped the Department of Justice and the Office of the Attorney General into what they are today.

The Attorney General supervises and directs the administration of all the Department's components. He also furnishes advice on legal matters to the President, the Cabinet, and the heads of the executive departments and agencies of the government. In addition, the Attorney General represents the United States in legal matters generally, and makes recommendations to the President concerning appointments to federal judiciary and positions within the Department, including U.S. Attorneys and U.S. Marshals.

* * * * *

(The duties and responsibilities of the Offices of Deputy Attorney General and Associate Attorney General as they are described below represent the official delegations of authority as they existed during Fiscal Year 1985. However, because of vacancies in each post during the course of the year, the duties of both jobs were exercised by Deputy Attorney General Lowell Jensen for most of the Fiscal Year. Duties and responsibilities for each post were modified during Fiscal Year 1985).

Office of the Deputy Attorney General

D. Lowell Jensen became Deputy Attorney General in May 1985, having served earlier as Associate Attorney General and as Assistant Attorney General in charge of the Criminal Division. He succeeded Carol Dinkins.

The Deputy Attorney General assists the Attorney General in formulating and implementing Department policies and programs, and supervises the activities of the Associate Attorney General as well as the Office of Legislative and Intergovernmental Affairs, the Justice Management Division, the Office of Public Affairs, the Immigration and Naturalization Service, the Antitrust Division, the Civil Division, the Civil Rights Division, the Land and Natural Resources Division, the Tax Division, the Executive Office for Immigration Review, the Community Relations Service, the Executive Office for U.S. Trustees, and the U.S. Trustees. For administrative reasons, the Deputy Attorney General also supervises the Foreign Claims Settlement Commission.

In addition, the Deputy Attorney General coordinates departmental relations with the White House staff and the Executive Office of the President, coordinates the Depart-

ment's reaction to civil disturbances and terrorism, and exercises the authority vested in the Attorney General to act in matters pertaining to the employment, separation, and general administration of attorneys, law students, and personnel in the Senior Executive Service and in General Schedule grades GS-16 through GS-18, or the equivalent.

Office of the Associate Attorney General

The Associate Attorney General assists the Attorney General and the Deputy Attorney General in formulating and implementing departmental policies and programs pertaining to criminal matters. The Associate Attorney General also supervises the activities of the Criminal Division, the Drug Enforcement Administration, the Executive Office for U.S. Attorneys, the office of each U.S. Attorney, the Bureau of Prisons, the Federal Prison Industries, Inc., the Office of the Pardon Attorney, the Office of Justice Programs (including the Bureau of Justice Assistance, the Bureau of Justice Statistics, the National Institute of Justice and the Office of Juvenile Justice and Delinquency Prevention), the U.S. Marshals Service, and the U.S. National Central Bureau-International Criminal Police Organization (INTERPOL). For administrative reasons, the Associate Attorney General also supervises the U.S. Parole Commission.

Priorities and Achievements

During his first year as Attorney General, Edwin Meese III has continued and built upon a number of initiatives ably begun by his predecessor, William French Smith. In addition, he has focused departmental attention and resources on a number of new issue priorities involving justice and public policy.

Listed here by subject area are issues that have commanded special attention during Attorney General Meese's first year in office. While by no means exhaustive, it is representative of the priorities, accomplishments, and agenda of the Department of Justice.

Constitutional Interpretation. Beginning with a major address before the American Bar Association in July of 1985, the Attorney General has sparked a vigorous and spirited debate over the meaning and interpretation of the Constitution. He has advanced the view that much of modern constitutional jurisprudence tends to give short shrift to the discoverable principles—the original intent—of a number of constitutional provisions.

The "jurisprudence of original intention" advocated by the Attorney General is an invitation to rediscover the basic principles of American government and the allocation of rights and governmental responsibilities embodied in the Constitution. In particular, it means defining the role of each branch of the government—and the federal government in its entirety—in accord with constitutional principles, so as to

reinvigorate the political processes of democratic government and enhance the accountability of government to the people.

Drug Abuse and Enforcement. During Fiscal Year 1985, aggressive enforcement of federal law directed at the importation, manufacture, sale, and distribution of illegal drugs was made the top criminal justice priority. During the past year, the Department has taken major steps to build upon the Administration's earlier efforts against illegal drug trafficking and abuse in each of these areas. Moreover, through efforts such as the Organized Crime and Drug Enforcement Task Force Program, special attention has been focused upon the involvement of organized crime in drug trafficking.

The Department has implemented a plan to train Federal Bureau of Investigation and Drug Enforcement Administration agents (groups that have a related role in combating the drug problem) together at Quantico, Virginia. Substantial progress has also been made toward improving the level of state and federal cooperation in drug enforcement activities. This cooperation was manifested in Operation Delta-9, the first 50-state marijuana eradication program in the nation's history.

During the past year, federal drug arrests increased about 20 percent and arrests of major traffickers 40 percent. The government seized record amounts of the traffickers' property and profits derived from the drug trade. The Attorney General launched a personal effort to expand international cooperation in combating drug trafficking in meetings with law enforcement officials from Spain, Great Britain, Italy, Switzerland, Austria, and Mexico.

The Attorney General has also placed increased emphasis on addressing the "demand side" of the drug abuse problem. This involves an all-out effort to persuade people—especially young people—not to use drugs.

Civil Rights. During Fiscal Year 1985, the Civil Rights Division continued its vigorous enforcement of the civil rights laws. The Division gave high priority to racial violence cases, prosecuting Ku Klux Klan members in North Carolina, as well as a violent neo-Nazi group known as the Aryan Nations Organization.

The Department has also been actively enforcing the Voting Rights Act, challenging as discriminatory against Hispanics the redrawing of Los Angeles City Council districts. Also, the Division obtained more than \$5.1 million in backpay awards to victims of discriminatory employment practices.

The Department has sought to ensure that government treats all citizens equally and without regard to race.

Criminal Procedure. The Department continued to implement the reforms included in the Comprehensive Crime Control Act of 1984, the most far-reaching reform of federal criminal law in history. In addition to many other important changes in federal law, this legislation established

the U.S. Sentencing Commission. Its seven members were confirmed in October 1985. The Commission will create sentencing guidelines to ensure equitable sentencing for similar groups of offenders. It will replace the U.S. Parole Commission and remove the federal government from the parole process. Its first report to Congress is due in April 1987.

Among the initiatives launched by Attorney General Meese during 1985 in the area of criminal procedure are: a proposal to restore constitutional procedures for imposition of capital punishment for especially heinous federal crimes; a proposal to modify *habeus corpus* procedures to give greater finality to state court criminal judgments, thereby reducing frivolous appeals; a plan to reform the exclusionary rule to allow use of certain types of probative evidence now suppressed; and revision of the Freedom of Information Act to protect sensitive information relating to terrorism and organized crime.

These legislative initiatives reflect the Attorney General's firm belief that the criminal justice system needs to be reformed in ways that balance more equitably the rights of the accused and the rights of society.

Organized Crime. Over the past year, the battle against organized crime has grown more intense, with major trials in cities around the country, including Kansas City, Boston, Chicago, Hartford, Newark, and especially New York City, where figures from the so-called "five families" have been charged with a variety of violations of federal law.

The Department's ability to fight organized crime received a boost with the use of one of the recently enacted provisions of the Administration's Crime Control Package that allows prosecutors to impound the proceeds of illicit activities.

Economic Crime. During Fiscal Year 1985, the Department of Justice was aggressive in its pursuit of economic crime. Foremost among a number of significant cases was the one involving E.F. Hutton. This case was a novel and massive prosecution representing the successful use of provisions of the Comprehensive Crime Control Act. The fines imposed—some \$2.5 million—recovered the costs of the prosecution. Moreover, the rapid resolution of the case aided restitution of those who had been damaged by Hutton's activities and sent a message to the corporate community that the Department would move vigorously against such activities.

Other economic cases featured stiff penalties or sentences or both. The Jake Butcher case resulted in a 20-year prison term. General Electric pled guilty to charges of defrauding the Department of Defense, was fined \$1.04 million, forced to pay \$800,000 in restitution, and was temporarily suspended from doing business with the government. Four General Electric managers were indicted. General Telephone and Electric pled guilty to conspiring to illegally obtain

Pentagon budget documents, and company officials were charged individually. Former Department of Defense official Paul Thayer and Dallas stockbroker Billy Bob Harris each received four-year prison sentences for obstruction of justice in connection with an insider stock trading scheme. Fred Soudan drew a 35-year prison sentence for masterminding one of history's largest maritime frauds.

The Department also sent to Congress an eight-bill anti-fraud package in September, and it has announced plans to install a new computerized file on white-collar crime suspects that would link officials in 64,000 law enforcement agencies.

Terrorism. Incidents of international terrorism multiplied in number and intensity during 1985. Attorney General Meese stressed his determination to deal with such incidents as criminal acts for which the perpetrators must be brought to justice. Investigations into the hijacking of TWA Flight 847 in June led to the issuing of arrest warrants for four terrorists involved. Similarly, warrants were issued for the arrests of those responsible for hijacking the cruise ship *Achille Lauro* and the murder of American Leon Klinghoffer.

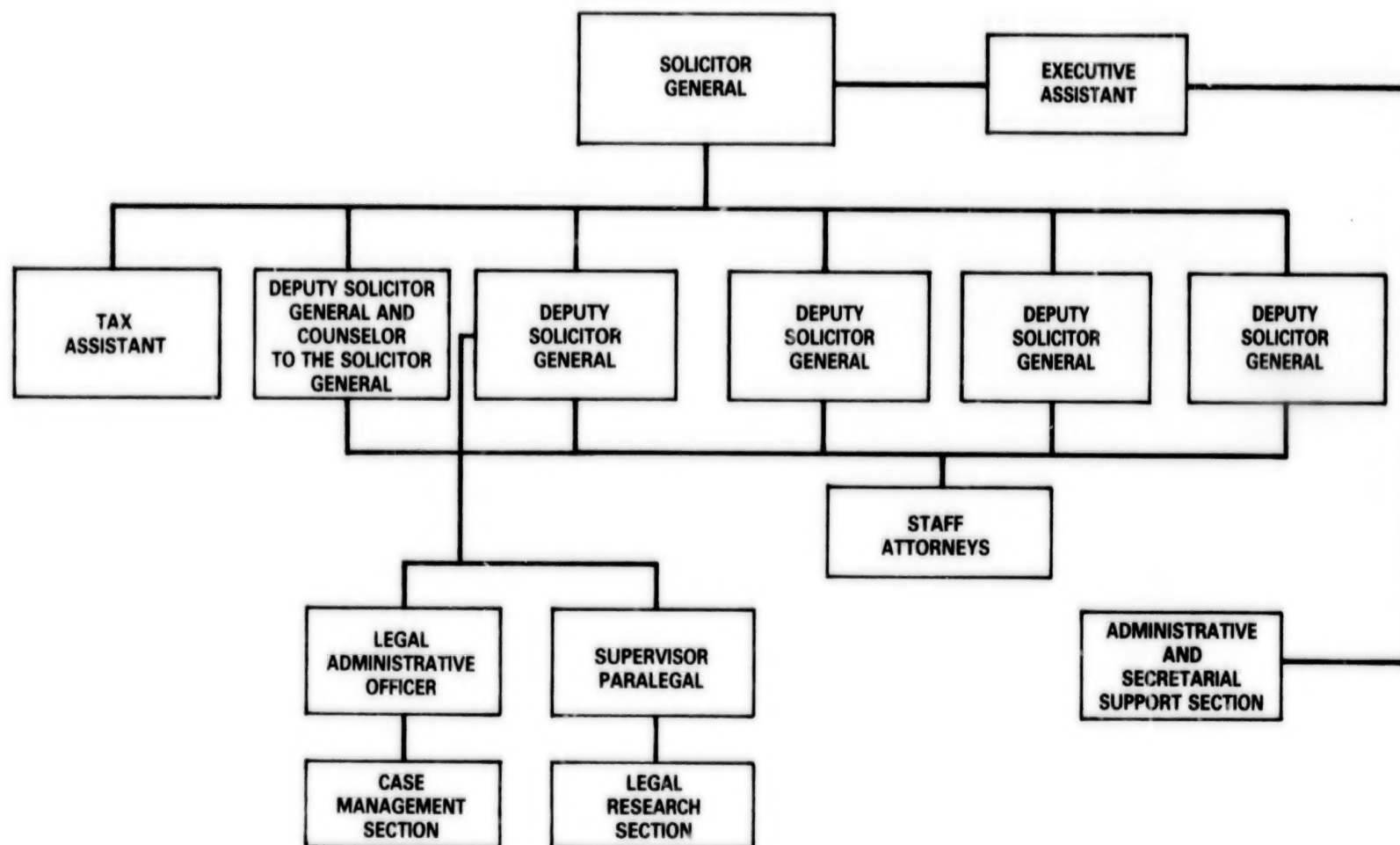
The Attorney General has met with his counterparts from a number of nations in Western Europe to discuss ways in which international cooperation against terrorism can be enhanced. Moreover, the Department of Justice has availed itself of the provisions in new mutual assistance treaties, and expanded criminal jurisdiction provided by "long arm" statutes aimed at terrorist acts directed against Americans anywhere in the world, to pursue terrorists wherever they may try to hide.

Espionage. During the past year, the Department has undertaken the investigation and prosecution of 11 major espionage cases involving individuals accused of spying for the Soviet Union, the People's Republic of China, and Israel. Notable among these were the cases of John Walker and his son Michael, both of whom pled guilty, and Larry Chin, who was convicted on all counts.

Antitrust. Reform of the nation's century-old antitrust laws has become a top Administration and departmental priority. The Attorney General and the Department played a key role in formulating the comprehensive antitrust proposals agreed to by the Cabinet late in 1985. The proposals, which were introduced in Congress in early 1986, represent the first major effort to overhaul the basic antitrust statutes since their enactment around the turn of the century.

The proposals reflect the Administration's conviction that current law fails to take into account the broad international scope of competition in late twentieth-century world trade, prevents certain pro-competitive business activities and mergers, and unfairly deters and penalizes some activities which would otherwise actually enhance competition and economic health. The reforms include changes in treble damages, attorneys' fees, and amount of claims.

OFFICE OF THE SOLICITOR GENERAL



Office of the Solicitor General

Rex E. Lee
Solicitor General

The Solicitor General, with the assistance of a small staff of attorneys, is responsible for conducting and supervising all aspects of government litigation in the Supreme Court of the United States. In addition, the Solicitor General reviews every case litigated by the federal government that a lower court has decided against the United States, to determine whether to appeal, and also decides whether the United States should file a brief as *amicus curiae* in any appellate court.

A significant part of the work of the Office involves government agencies that have conducted lower court litigation themselves such as the National Labor Relations Board (NLRB) and the Securities and Exchange Commission. In addition, many cases arise from activities of executive departments of the government.

During the past term of the Supreme Court (July 6, 1984 to July 2, 1985), the Office handled 1,884 cases, 38 percent of the 5,006 cases on the Court's docket [Table I]. Of the 4,429 cases acted on during the term, there were 1,421 in which the government appeared as the respondent, 42 petitions for writs of *certiorari* filed or supported by the government and 17 cases in which it appeared as *amicus curiae* supporting the respondent [Table II-A]. During the same period, the Court acted upon 13 appeals filed or supported by the government and 10 cases where the Office either represented the appellee or appeared as *amicus curiae* supporting the appellee [Table II-B]. In addition, the Office participated in four cases on the court's original docket [Table II-D].

Of the 3,997 petitions for writs of *certiorari* docketed and acted upon, only four percent were granted during the term. Of those filed or supported by the United States 80 percent were granted. This reflects the careful screening of the government cases by the Solicitor General and his staff before the decision is made to file or to support a petition. Of the 13 appeals filed or supported by the government, probable jurisdiction was noted by the Court in nine [Tables II-A and B].

The government participated in argument or filed briefs as *amicus curiae* in 114 (65 percent) of 175 cases argued on the merits before the Supreme Court. Of the cases decided on the merits, with or without argument, the government participated in 146 of 236 cases, 77 percent of which were decided in favor of the government's position and two percent of which were decided partially in favor of the government's position.

During the same period, there were 637 cases in which the Solicitor General decided not to petition for *certiorari*, and 1,134 cases in which the Solicitor General was called upon to decide whether to authorize taking a case to one of the courts of appeals, plus 428 miscellaneous matters. This made a total of 4,083 substantive matters the Office handled during the year.

Government cases handled by the Office of the Solicitor General resulted in the following decisions by the Supreme Court during the 1984 Term: 1) the "the passive enforcement" system for prosecuting people who failed to register with Selective Service did not violate equal protection or the First Amendment (*Wayte v. United States*); 2) courts have no authority to review the decision of the Food and Drug Administration not to take enforcement actions (*Heckler v. Chaney*); 3) regional banking, pursuant to the approval of the Federal Reserve Board and state statute, does not violate the Bank Holding Company Act or the Equal Protection, Commerce, or Compact Clauses of the Constitution (*Northeast Bancorp, Inc. v. Board of Governors of the Federal Reserve System*); 4) limitations established by the President on the participation of organizations in the Combined Federal Campaign charity drive do not violate the First Amendment (*Cornelius v. NAACP Legal Defense and Educational Fund*); 5) the Central Intelligence Agency (CIA) is entitled to withhold intelligence sources and methods from disclosure under the Freedom of Information Act (*CIA v. Sims*); 6) the Double Jeopardy Clause does not bar successive prosecutions and cumulative punishments against drug "kingpins" for substantive drug offenses and for engaging in a continuing criminal enterprise (*Garrett v. United States*); 7) the NLRB properly construed the National Labor Relations Act to prohibit unions from restricting their members' right to resign (*Pattern Makers' League v. NLRB*); 8) a former Attorney General was entitled to qualified immunity from civil damages for authorizing a national security wiretap (*Mitchell v. Forsyth*); 9) the arbitration provisions of the Federal Insecticide, Fungicide, and Rodenticide Act do not violate Article III of the Constitution (*Thomas v. Union Carbide Co.*); 10) customs officials may detain at the border a person reasonably suspected of smuggling drugs in her alimentary canal (*United States v. Montoya de Hernandez*); 11) the recording and forfeiture provisions in the Federal Land Policy and Management Act of 1976 are not unconstitutional under the Due Process Clause (*United States*

v. *Locke*); 12) the Attorney General has broad discretion to decide whether to grant an alien's request to reopen an immigration proceeding (*INS v. Rios-Pineda*); 13) a federal statute limiting to \$10 the amount a veteran can pay to an attorney in connection with Veterans' Administration benefit claims does not violate the Due Process Clause or the First Amendment (*Walters v. National Association of Radiation Survivors*); and 14) the United States is immune from suits under the Federal Tort Claims Act for injuries that are incident to military service but occur off duty and away from a military base (*United States v. Shearer*).

The Office of the Solicitor General filed briefs as a friend of the Court in many other cases during the 1984 Term, including cases in which the Court held that: 1) the Fourth Amendment permits school officials to conduct reasonable searches that are not based on a warrant or supported by

probable cause (*New Jersey v. T.L.O.*); 2) a defendant's voluntary statement made after *Miranda* warnings were given is not inadmissible in a criminal trial on the ground that a similar statement was previously obtained in violation of *Miranda* (*Oregon v. Elstad*); 3) the Age Discrimination in Employment Act prohibits discriminatory practices unless age is a *bona fide* occupational qualification reasonably necessary to the operation of the business (*Western Air Lines, Inc. v. Criswell*); 4) municipalities are not subject to federal antitrust laws for anticompetitive actions taken pursuant to a clearly articulated state policy (*Town of Hallie v. City of Eau Claire*); 5) a state's reduction in medicaid benefits was not contrary to the Rehabilitation Act of 1973 (*Alexander v. Choate*); and 6) the federal securities laws apply to a stock transaction involving the sale of a business (*Gould v. Rufenacht* and *Landreth Timber Co. v. Landreth*).

TABLE I
Office of the Solicitor General—Supreme Court Litigation
October Term, 1984
(July 6, 1984—July 2, 1985)
Total Cases

	1980		1981		1982		1983		1984	
	No.	%	No.	%	No.	%	No.	%	No.	%
1. Total number of cases on dockets.....	5144	100	5311	100	5079	100	5086	100	5006	100
a. Brought over from preceding Term.....	970	19	889	17	878	17	864	17	959	19
b. Docketed during the Term.....	4174	81	4422	83	4201	83	4222	83	4047	81
2. Disposition of cases on dockets at the Term:										
Total.....	5144	100	5311	100	5079	100	5086	100	5006	100
a. Cases acted upon and closed.....	4255	83	4433	83	4215	83	4140	81	4249	85
b. Cases acted upon but not closed.....	105	2	132	2	109	2	112	2	81	2
c. Cases docketed but not acted upon....	784	15	746	14	755	15	834	16	676	13
3. Cases carried over to next Term.....	889	—	878	—	864	—	959	—	745	—
4. Classification of cases acted upon at the Term:										
Total.....	4360	100	4565	100	4306	100	4165	100	4429	100
a. Certiorari.....	4097	94	4267	93	3904	91	3968	95	4196	95
b. Appeals.....	178	4	213	5	264	6	142	3	171	4
c. Miscellaneous docket, original writs...	71	2	74	2	128	3	44	1	50	1
d. Original Docket.....	12	—	11	—	10	—	11	—	12	—
e. Certifications.....	2	—	0	—	0	—	0	—	0	—
5. Cases participated in by the Government:.....	1999	39	2052	39	2152	42	2026	40	1884	38
6. Cases not participated in by the Government:.....	3145	61	3259	61	2927	58	3060	60	3122	62

TABLE II-A
Office of the Solicitor General
Classification of Cases Upon Which the Supreme Court has Acted

This does not include cases in which the Court has merely acted on application for stays, extensions of time, or similar matters, or denied petition for rehearing

	1980		1981		1982		1983		1984	
	No.	%	No.	%	No.	%	No.	%	No.	%
A. PETITIONS FOR WRITS OF CERTIORARI										
1. Total number docketed and acted upon .	4038	100	4188	100	4005	100	3878	100	3997	100
a. Petitions filed or supported by Govt:...	69	2	73	2	80	2	47	1	42	1
(1) Government as petitioner.....	50	2	56	1	66	2	38	1	36	—
(2) Government as <i>amicus</i> , supporting petitioner.....	19	—	16	—	14	—	9	—	6	—
b. Petitions not filed or supported by Government.....	3969	98	4083	97	3919	95	3809	98	3917	98
(1) Government as respondent.....	1525	38	1564	37	1486	40	1490	38	1421	36
(2) Government as <i>amicus</i> , supporting respondent.....	19	—	14	—	18	—	14	—	17	—
(3) No participation by Govt.....	2425	60	2500	60	2415	59	2305	59	2479	62
2. Total number of petitions granted.....	243	6	195	5	142	4	120	3	145	4
a. Petitions filed or supported by Govt:...	42	61	57	78	51	64	37	79	34	80
(1) Government as petitioner.....	31	62	45	80	39	59	30	79	29	80
(2) Government as <i>amicus</i> , supporting petitioner.....	11	58	12	75	12	86	7	78	5	83
b. Petitions not filed or supported by Govt:.....	201	5	106	3	91	2	83	2	111	2
(1) Government as respondent.....	48	3	18	1	28	1	24	2	24	1
(2) Government as <i>amicus</i> , supporting respondent.....	2	11	1	7	4	22	0	—	2	1
(3) No participation by Government.....	151	6	87	3	59	3	59	3	85	3
3. Total number of petitions denied or dismissed.....	3773	93	3965	95	3838	98	3736	96	3814	95
a. Petitions filed or supported by Govt:...	24	35	13	18	10	2	10	21	8	19
(1) Government as petitioner.....	18	36	9	16	9	15	8	21	7	19
(2) Government as <i>amicus</i> , supporting petitioner.....	6	32	4	25	1	4	2	22	1	16
b. Petitions not filed or supported by Govt:.....	3749	94	3952	97	3829	98	3726	98	3806	99
(1) Government as respondent.....	1468	96	1546	99	1459	98	1466	98	1397	98
(2) Government as <i>amicus</i> , supporting respondent.....	17	89	13	93	14	78	14	100	15	88
(3) No participation by Government.....	2264	93	2393	96	2356	98	2246	97	2394	97
4. Total number of petitions mooted or dismissed.....	22	1	28	1	24	—	22	—	38	—

NOTE: Percentages based on participation.

TABLE II-B, C
Office of the Solicitor General
(Cont'd)—Classification of Cases Upon Which the Supreme Court has Acted

	1980		1981		1982		1983		1984	
B. APPEALS	No.	%	No.	%	No.	%	No.	%	No.	%
1. Total number docketed and acted upon .	165	100	190	100	154	100	142	100	138	100
a. Appeals filed or supported by Govt:....	14	8	22	12	10	6	14	10	13	9
(1) Government as appellant.....	10	6	17	10	8	5	7	5	7	5
(2) Government as <i>amicus</i> , supporting appellant.....	4	2	5	3	2	1	7	5	6	4
b. Appeals not filed or supported by Govt:.....	151	92	168	88	144	94	128	90	125	91
(1) Government as appellee.....	10	11	12	6	12	8	8	6	9	7
(2) Government as <i>amicus</i> , supporting appellee.....	2	1	2	1	5	3	5	4	1	1
(3) No participation by Government.....	131	80	154	81	127	82	115	81	115	83
2. Total number dismissed, affirmed or reversed without argument.....	124	75	141	74	130	84	114	80	101	73
a. Appeals filed or supported by Govt:....	2	14	6	27	2	20	4	29	4	31
(1) Government as appellant.....	2	20	5	29	2	25	3	43	3	43
(2) Government as <i>amicus</i> , supporting appellant.....	0	—	1	20	0	0	1	14	1	17
b. Appeals not filed or supported by Govt:.....	122	81	135	80	128	89	110	86	97	78
(1) Government as appellee.....	10	56	4	100	12	100	7	88	4	44
(2) Government as <i>amicus</i> , supporting appellee.....	—	—	2	100	3	60	5	100	1	100
(3) No participation by Government.....	112	85	129	84	113	89	98	85	92	80
3. Total number Jurisdiction Noted or set for argument.....	41	25	49	26	24	16	28	20	37	27
a. Appeals filed or supported by Govt:....	12	56	16	73	8	80	10	71	9	69
(1) Government as appellant.....	8	80	12	71	6	75	4	57	4	57
(2) Government as <i>amicus</i> , supporting appellant.....	4	100	4	80	2	100	6	86	5	83
b. Appeals not filed or supported by Govt:.....	29	19	33	20	16	11	18	14	28	22
(1) Government as appellee.....	8	44	8	67	0	0	1	13	5	56
(2) Government as <i>amicus</i> , supporting appellee.....	2	100	0	—	2	40	0	—	0	—
(3) No participation by Government.....	19	15	25	10	14	11	17	15	23	20
C. MISCELLANEOUS DOCKET—ORIGINAL WRITS										
1. Total number of applications for original writs docketed and acted upon.....	71	100	74	100	76	100	44	100	50	100
a. Filed or supported by Government.....	0	—	0	—	0	—	0	—	1	2
(1) Government as petitioner.....	0	—	0	—	0	—	0	—	1	2
(2) Government as <i>amicus</i> , supporting petitioner.....	0	—	0	—	0	—	0	—	0	—
b. Not filed or supported by Government.....	71	100	74	100	76	100	44	100	49	98
(1) Government as respondent.....	13	18	14	19	13	17	11	25	11	22
(2) Government as <i>amicus</i> , supporting respondent.....	0	—	0	—	0	—	0	—	0	—
(3) No participation by Government.....	58	82	60	81	63	83	33	75	38	76
2. Total number decided without argument.....	71	100	74	100	76	100	44	100	50	100
a. Filed or supported by Government.....	0	—	0	—	0	—	0	—	1	2
(1) Government as petitioner.....	0	—	0	—	0	—	0	—	1	2
(2) Government as <i>amicus</i> , supporting petitioner.....	0	—	0	—	0	—	0	—	0	—
b. Not filed or supported by Government.....	71	100	74	100	76	100	44	100	49	100
(1) Government as respondent.....	13	18	14	19	13	17	11	25	11	22
(2) Government as <i>amicus</i> , supporting respondent.....	0	—	0	—	0	—	0	—	0	—
(3) No participation by Government.....	58	82	60	81	63	83	33	75	38	78
3. Total argued or set for argument.....	0	—	0	—	0	—	0	—	0	—
a. Filed or supported by Government.....	0	—	0	—	0	—	0	—	0	—
(1) Government as petitioner.....	0	—	0	—	0	—	0	—	0	—
(2) Government as <i>amicus</i> , supporting petitioner.....	0	—	0	—	0	—	0	—	0	—
b. Not filed or supported by Government.....	0	—	0	—	0	—	0	—	0	—
(1) Government as respondent.....	0	—	0	—	0	—	0	—	0	—
(2) Government as <i>amicus</i> , supporting respondent.....	0	—	0	—	0	—	0	—	0	—
(3) No participation by Government.....	0	—	0	—	0	—	0	—	0	—

Continued on next page

TABLE II- D, E
Office of the Solicitor General
(Cont'd)—Classification of Cases Upon Which the Supreme Court has Acted

	1980		1981		1982		1983		1984	
	No.	%	No.	%	No.	%	No.	%	No.	%
D. ORIGINAL DOCKET										
1. Total number acted upon.....	12	100	11	100	10	100	11	100	10	100
a. Government participating.....	10	83	4	36	6	60	5	45	4	60
b. Government not participating.....	2	17	7	64	4	40	6	55	6	40
E. CERTIFICATES										
1. Total number of certificates docketed and acted upon.....	2	100	0	—	0	—	0	—	0	—
a. Government participating.....	2	100	0	—	0	—	0	—	0	—
b. Government not participating.....	0	—	0	—	0	—	0	—	0	—

NOTE: Percentages based on participation

TABLE III
Office of the Solicitor General
Classification of Supreme Court Cases Argued or Decided on Merits

	1980		1981		1982		1983		1984	
	No.	%	No.	%	No.	%	No.	%	No.	%
A. ARGUED										
1. All cases argued.....	154	100	184	100	183	100	184	100	175	100
2. Government participating.....	101	66	104	57	131	72	118	64	114	65
a. Government as petitioner or appellant ¹	31	31	30	29	44	34	46	39	37	32
b. Government as respondent or appellee ²	37	36	27	26	44	34	33	28	34	30
c. Government as <i>amicus</i> ³	33	33	47	45	43	33	39	33	43	38
3. Government not participating.....	53	34	80	43	52	28	66	36	61	35
B. DECIDED ON MERITS WITH OR WITHOUT ARGUMENT										
1. All cases decided on merits ¹	277	100	315	100	283	100	262	100	236	100
2. Government participating.....	128	46	136	43	172	61	150	57	146	62
a. Decided in favor of Govt's position ²	92	72	111	82	115	67	124	83	113	77
b. Decided against Govt's position ²	32	25	20	15	50	29	23	15	30	21
c. Not classifiable as for or against ²	4	3	5	3	7	4	3	2	3	2
3. No participation by Government.....	149	54	179	57	111	39	112	43	90	38

¹Includes cases summarily affirmed, reversed or vacated on the *In Forma Pauperis* Docket.

²Percentage is based on the total cases in which the Government participated.

³Includes cases in which the Government filed briefs as *amicus curiae* but did not participate in the argument.

Office of Legal Counsel

Ralph W. Tarr
Acting Assistant Attorney General

The principal function of the Office of Legal Counsel (OLC) is to assist the Attorney General in his role as legal adviser to the President and executive branch agencies. The Office, which is headed by an Assistant Attorney General, also assists the Attorney General in connection with the activities of the Department itself.

As part of these functions, OLC drafts the formal opinions of the Attorney General. These are relatively few in number and ordinarily involve issues of major significance. Much more frequently, OLC directly provides legal advice in response to requests from officials of the executive branch, typically involving legal issues of particular complexity and importance, and often about which two or more agencies are in disagreement. During Fiscal Year 1985, hundreds of written OLC opinions were issued and frequent informal oral advice was provided to various officials within the Executive Office of the President, federal departments and agencies, and components within this Department, covering a wide range of legal questions, including both matters of constitutional interpretation and statutory construction.

In addition, all proposed Executive orders and certain Presidential proclamations are reviewed by the Office as to form and legality before issuance. An example of this function was the President's Executive order involving a major revision of the Manual for Courts-Martial. The Office was involved not only in the final approval of the order, but also in the early stages of its drafting.

The Assistant Attorney General, his deputies, and members of the staff served on a number of formally constituted interdepartmental and intradepartmental committees during the year. These included the Administrative Committee of the Federal Register, the Secretary of State's Advisory Committee on Private International Law, and the Department of Justice Review Committee, as well as numerous *ad hoc* working groups. The Office continued to provide assistance to the President's Personal Representative for Micronesian Status Negotiations in connection with the arrangement of a new status for the Trust Territory of the Pacific Islands. The Assistant Attorney General also served as a liaison to the National Conference of Commissioners on Uniform State Laws and to the Council of State Governments.

Although the Office does not conduct litigation as one of its regular functions, it is frequently called upon to advise and assist other divisions of the Department in making litigation strategy judgments and in the preparation of briefs and memoranda relating to constitutional or statutory issues

within the Office's areas of expertise; occasionally, staff attorneys have also briefed and presented oral arguments in appellate matters. During Fiscal Year 1985, the Office participated extensively in cases involving, for example, the President's pocket veto of legislation, challenges to Presidential appointment and removal of executive branch officials, and various First Amendment issues.

In the legislative area, the Office assisted other Department components in preparing legislation. In addition, OLC provided legal analysis of legislation proposed by Congress and other executive branch agencies. The Office also prepared and delivered testimony before committees of Congress on a number of matters, including the proposed Genocide Convention, the Constitution of American Samoa, and the Compact of Free Association for the Trust Territory of the Pacific Islands. Similarly, the Office assisted in the preparation of testimony for various officials of this and other departments, most notably with regard to executive and legislative branch efforts to respond to the Supreme Court's invalidation of legislative veto devices in *Immigration and Naturalization Service v. Chadha*.

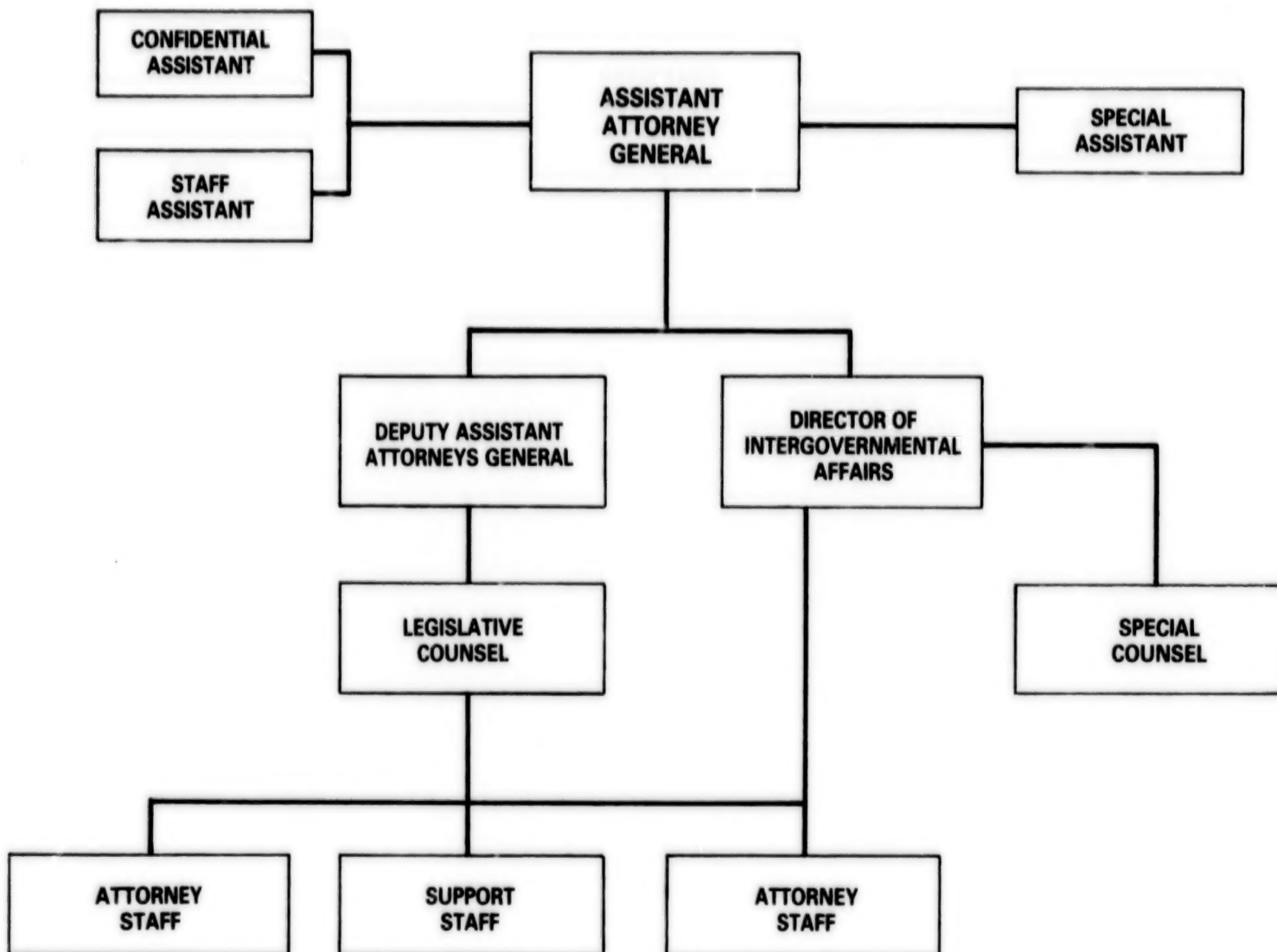
In assisting the Attorney General with respect to Department activities, the Office reviews all orders and regulations submitted for the Attorney General's signature, and provides advice with respect to his formal review of certain decisions of the Board of Immigration Appeals. OLC also provided substantial advice concerning the ethical responsibilities of Department attorneys and other employees, and fulfills the Attorney General's responsibilities under the Ethics in Government Act of 1978 to approve blind trusts and to work with the Director of the Office of Government Ethics to develop rules, regulations, procedures, and forms relating to ethics and conflicts of interest. Furthermore, OLC performed, pursuant to specific delegations, a number of responsibilities imposed upon the Attorney General by such specific statutory provisions in other areas of the law as well.

The Office's designated functions also include advising with respect to the legal aspects of treaties and other international agreements as well as of other international matters. The Office dealt with a number of such matters during Fiscal Year 1985, rendering advice to the Attorney General and working with the Departments of State, Defense, the Treasury, Transportation and other executive departments as necessary to prepare coordinated advice to the President. For example, OLC rendered advice on the proposed Genocide Convention, the War Powers Resolution,

diplomatic relations with the Vatican, and national emergencies declared under the International Emergency Economic Powers Act.

In addition, OLC has undertaken, at the direction of the Attorney General, responsibility for publishing its legal

opinions to provide greater public and agency access to them. Five volumes of selected OLC opinions have been issued, covering the period 1977-1980; a sixth volume, covering the Calendar Year 1981, is about to be issued; and preparations for publication of additional volumes covering subsequent years are under way.

OFFICE OF LEGISLATIVE AND INTERGOVERNMENTAL AFFAIRS

Office of Legislative and Intergovernmental Affairs

Phillip D. Brady
Acting Assistant Attorney General

The Office of Legislative and Intergovernmental Affairs (OLIA) serves three primary functions. First, it helps formulate and coordinate legislative policy among the Department's offices, boards, divisions, and bureaus. Second, it maintains Department liaison with Congress and other government departments and agencies. Third, it is responsible for liaison between the Department and state and local governments and related interest groups.

OLIA recommends and coordinates development of the Department's legislative proposals and its positions on legislation originating in Congress or referred for comment by the Office of Management and Budget. It monitors congressional committees for matters of interest to the Department, and provides assistance to the President's staff in formulating the Administration's bills and in seeking their approval by Congress. OLIA provides or arranges for testimony by Department witnesses at congressional hearings and handles requests for information relating to congressional investigations or constituent inquiries.

The Office of Intergovernmental Affairs was established within OLIA in March of 1984. The responsibilities of the Office of Intergovernmental Affairs include:

- Serving as an information resource for the Department on policies, issues, and activities of state and local governments and related interest groups;
- Alerting other governmental officials and related interest groups to significant departmental policy decisions; and
- Facilitating the flow of information relating to intergovernmental issues among Department officials, heads of operating divisions and U.S. Attorneys.

The volume of legislative business during Fiscal Year 1985 was substantial. OLIA handled 1,385 requests for reports to Congress and the Office of Management and Budget on legislative proposals. Department witnesses testified at 180 congressional hearings. Responses were prepared to more than 9,000 letter inquiries from Congress, other agencies, or the public. Approximately 9,600 telephone inquiries were received from Congress and other sources.

Major legislative matters to which the Office devoted substantial resources during Calendar Year 1984 include:

- Enactment of the Comprehensive Crime Control Act, (P.L. 98-473). This was the most far-reaching reform of the nation's federal criminal code ever enacted at one time and included key reforms of federal bail, sentencing, forfeiture, insanity defense and drug laws as well as a host of other improvements of existing law to facilitate anti-crime efforts. This Office has also assisted in the implementation of the 1984 crime package.
- Enactment of product tampering legislation (P.L. 98-127) to provide tougher federal penalties for tampering with foods, drugs, cosmetics, and other consumer products.
- Enactment of major child pornography amendments (P.L. 98-292) to strengthen federal laws relating to child pornography offenses.
- Enactment of aviation drug smuggling legislation (P.L. 98-499) which provides enhanced penalties for smuggling drugs by air and authorizes revocation of airman certificates and aircraft registration for drug smuggling.
- Enactment of the National Cooperative Research Act (P.L. 98-962), a Department legislative proposal that amends the antitrust laws to create incentives for joint research and development ventures.
- Enactment of the Bankruptcy Amendments and Federal Judgeship Act (P.L. 98-353) to respond to the Supreme Court's ruling in *Northern Pipeline Construction Co. v. Marathon Pipe Line Co.*, which held that the Congress' broad grant of jurisdiction to the new bankruptcy courts was unconstitutional, and establish 85 urgently needed new federal judgeship positions.

So far during the 99th Congress which convened in January of 1985, this Office has devoted substantial effort to the following legislative measures:

- The Anti-Fraud Enforcement Initiative of 1985, an eight-bill package to strengthen federal laws related to crime against the government by establishing new administrative penalties for program fraud as an adjunct to criminal and civil judicial proceeding, improving the False Claims Act, providing tougher penalties for bribes and gratuities related to federal programs,

establishing a comprehensive federal computer crime law and making various other improvements in fraud-related statutes.

- The Money Laundering and Related Crimes Act to enhance the ability of federal law enforcement officials to strike at the money laundering crimes associated with drug trafficking, organized crime, and tax evasion.
- Technical and Minor Amendments to the Comprehensive Crime Control Act of 1984, an 85-section bill to make needed refinements in the landmark criminal code reforms enacted in 1984.
- Capital Punishment, *Habeas Corpus* and Exclusionary Rule reform bills introduced to follow up on the President's proposals in his 1983 anti-crime package. All three of those bills were approved by the Senate in 1984 but the House took no action on these measures during the 98th Congress.
- Designer drug legislation to enable federal prosecutors to reach those who attempt to circumvent the Controlled Substances Act by manufacturing or marketing for human consumption substances with slightly altered chemical formulations.
- Comprehensive legislation to curb illegal immigration and to legalize the status of millions of illegal aliens in the United States.
- The Legal Fees Equity Act. The Department has submitted legislation to establish standards and procedures for awards of attorney's fees in civil, judicial, and administrative proceedings against the United States, state and local governments in cases where federal statutes allow such awards, and it would eliminate excessive awards in such cases.
- Equal Access to Justice Act. The Department supported the enactment of legislation to reauthorize the Equal Access to Justice Act which provides attorney's fees to prevailing parties in actions against the government where the government is unable to show that its conduct is substantially justified. (enacted as P.L. 99-80).
- The Civil Rights Amendments Act. The Department has supported the enactment of legislation to amend Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, in response to the Supreme Court's decision in *Grove City College v. Bell* (1984). This bill provides that with respect to educational institutions the term "program or activity" in these statutes means the entire institution, and that in all other instances the term "program or activity" is neither expanded nor contracted but must be interpreted without regard to both the *Grove City* decision and the Supreme Court's decision in *North Haven Board of Education v. Bell* (1982).

Office of Legal Policy

James M. Spears
Acting Assistant Attorney General

A strategic legal "think tank" serving as the Attorney General's principal policy development staff, the Office of Legal Policy (OLP) devotes itself to the study of issues central to the Department's policy agenda. Acting at the direction of the Attorney General and generating its own proposals as well, OLP undertakes to provide the thorough legal and policy analysis necessary to undergird new Department initiatives. The Office's 20 attorneys thus work to produce concrete strategies for legal reform in a wide variety of areas.

OLP's long-term planning responsibilities require its attorneys to anticipate and to help shape the terms of national debate on legal policy questions. OLP therefore works closely with the Department's other divisions in establishing legislative and litigative approaches and with various agencies to help coordinate Administration policy positions. OLP projects illustrating the breadth of issues considered by the Office include research on and formulation of principles regarding separation of powers disputes, religious liberty conflicts, issues surrounding a constitutional convention, and approaches to constitutional litigation.

Additionally, the Office has been much involved in matters of court reform, white-collar crime, jurisprudence, *amicus* policy, criminal procedure, civil rights, bankruptcy, and social policy.

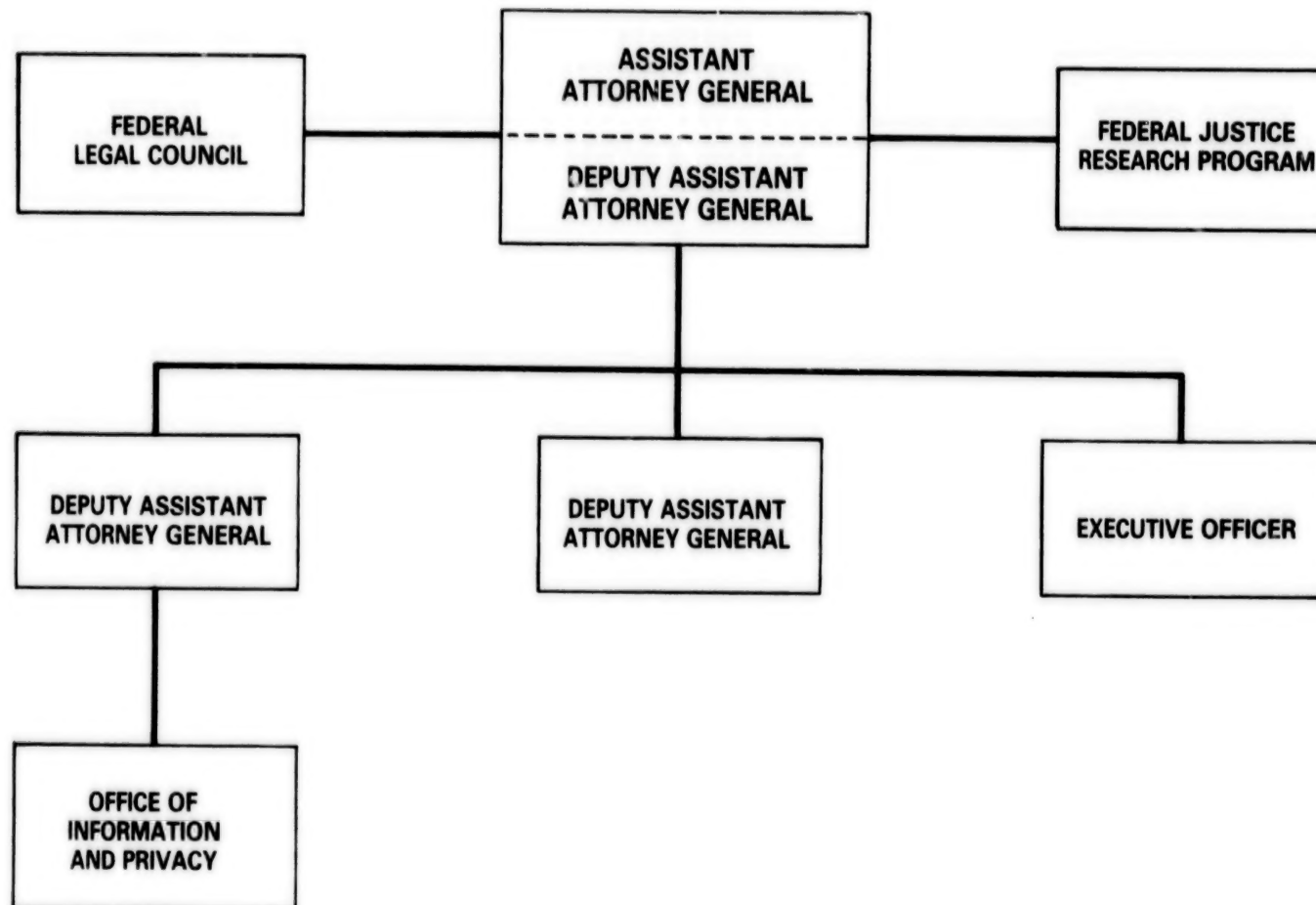
OLP is also charged with a variety of continuing responsibilities, such as monitoring the potential impact on federalism threatened by pending litigation. OLP is responsible, as well, for coordinating efforts to assist the Attorney General in advising the President on potential federal judicial nominees. The Office of Information and Privacy, a separate office reporting to OLP, manages departmental and governmentwide responsibilities related to the Freedom of Information Act and the Privacy Act.

Fiscal Year 1985 Accomplishments

- OLP was involved in a wide variety of federalism projects. Most notably, OLP prepared the Department's testimony for Senate hearings on the impact of *Garcia v. San Antonio Metropolitan Transit Authority* and assisted the Department's representatives on the Domestic Policy Council Working Group on Federalism.
- At the direction of the Attorney General, OLP assisted in the work on anti-crime legislation and undertook analysis of various issues in criminal law and procedure.

- OLP was involved in strategic planning for litigation. The Office worked with the Office of the Solicitor General and the divisions' appellate sections to identify appropriate cases for *amicus* participation by the United States. OLP also contributed to the staffing of the Litigation Strategy Working Group, which considered various topics, such as approaches to litigation involving consent decrees, special masters, and alternative sentencing.
 - As part of its responsibility to coordinate Department regulatory reform policy, OLP chaired an intradepartmental working group that developed coordination and review procedures for litigation involving the President's regulatory review system. In addition, OLP presented the Department's Senate testimony on congressional review of agency rule making. During the year, OLP also represented the Department on an interagency task force developing a governmentwide system of debarment of participants in federal financial assistance programs. This system will parallel the existing governmentwide debarment system for procurement.
 - OLP worked to identify and select qualified judicial candidates who share the President's views on judicial restraint. The Bankruptcy Amendments and Federal Judgeship Act of 1984 provided for 85 new Article III judgeships, 10 of which were filled in Fiscal Year 1984. In Fiscal Year 1985, OLP worked with Department and White House officials to fill 30 new judgeships and 23 vacancies in existing judgeships. In addition, at the close of the fiscal year more than 60 nominees were well along in the selection process.
 - OLP managed the Department's efforts on a number of bankruptcy issues. In consultation with other interested components, it developed the Administration's position on and legislation to provide for the expansion of the U.S. Trustee system and prepared amendments to the Bankruptcy Rules, necessitated by the Bankruptcy Amendments and Federal Judgeship Act of 1984, for the consideration of the Advisory Committee on Bankruptcy Rules of the Judicial Conference.
- OLP helped coordinate the international legal policies of the Department, including production of the Attorney General's response to the American Law Institute's draft Restatement of Foreign Relations Law of the United States (Revised). In addition, OLP par-

OFFICE OF LEGAL POLICY



ticipated in interagency groups developing Administration policy with respect to such issues as trade law, international investment, and national security.

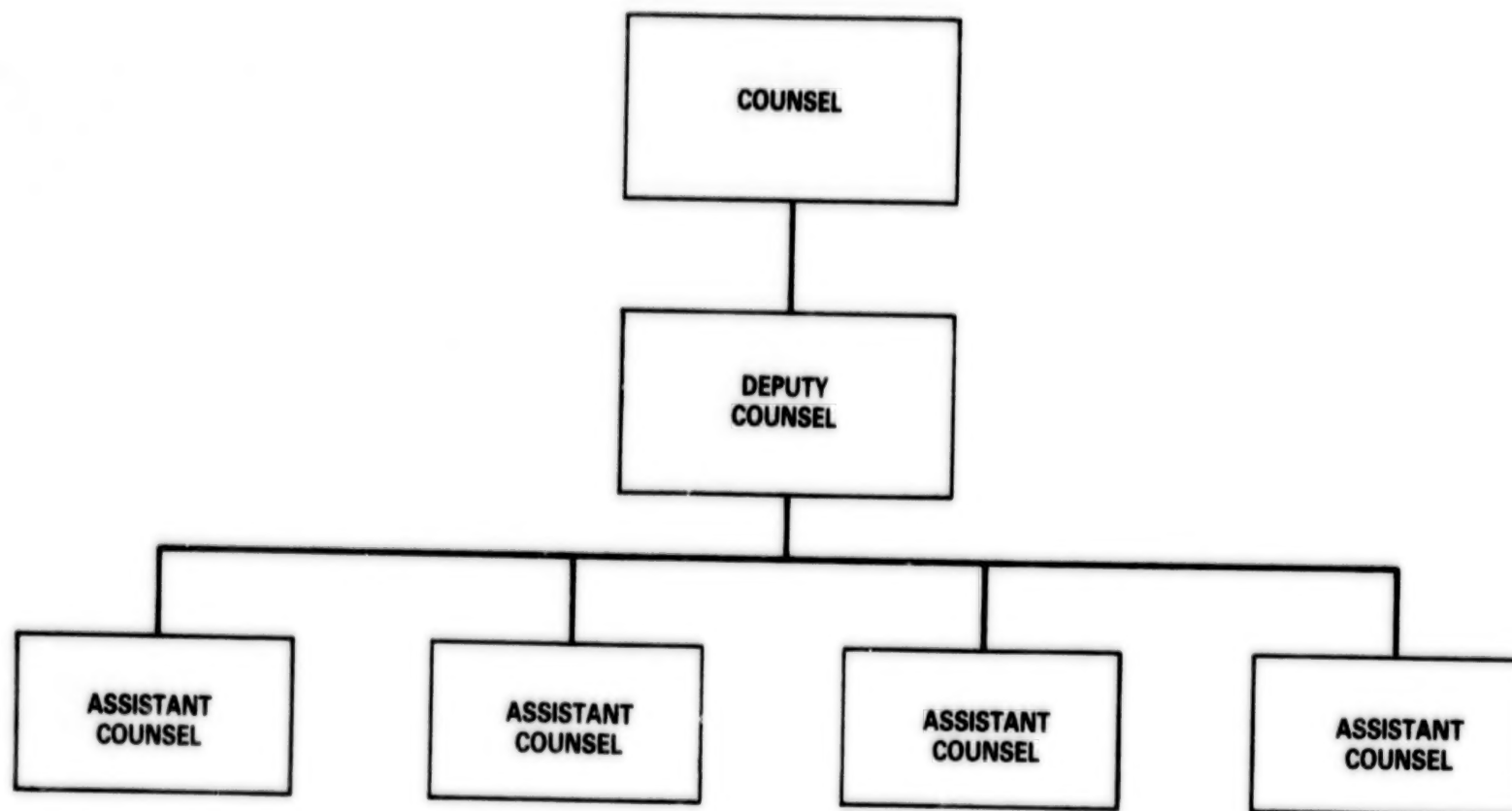
- OLP participated in intradepartmental efforts to redraft various rules of civil and criminal procedure. OLP chaired the Intradepartmental Committee on the Federal Rules of Civil Procedure, which developed the Department's position on amending Rule 68 to encourage settlements. OLP served on an intradepartmental working group drafting proposed amendments to Rule 6(e) of the Federal Rules of Criminal Procedure, which addressed impediments to law enforcement caused by *United States v. Sells Engineering, Inc.* and *United States v. Baggott*.
- OLP represented the Department at staff-level Cabinet Council working groups on space commercialization, intellectual property, biotechnology, and financial institutions reform. OLP also represented the Department at staff-level meetings of the Vice President's Task Group on Financial Services Regulation, which developed a legislative package relating to bank deregulation.
- Other activities this fiscal year included preparing legislation to limit awards of attorneys' fees; reviewing the question of sanctions for regulatory violations; starting a review of the Department's Indian responsibilities; and helping to develop Department positions on antitrust policy, computer crime, civil rights, and litigating authority.

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OFFICE OF PROFESSIONAL RESPONSIBILITY



Office of Professional Responsibility

Michael E. Shaheen, Jr.
Counsel

The primary responsibility of the Office of Professional Responsibility is the review and, where appropriate, investigation of allegations of misconduct against departmental employees. The head of the Office is the Counsel on Professional Responsibility, who serves as a special reviewing officer and adviser to the Attorney General.

Jurisdictionally, the Counsel and his staff receive and review information of allegations concerning conduct by Department of Justice employees that may violate law, Department orders or regulations, or other applicable standards of conduct. They also review conduct which may constitute mismanagement, gross waste of funds, abuse of authority, a danger to the public health or safety, and allegations of reprisal against employees who disclose information relating to matters within the Office's jurisdiction.

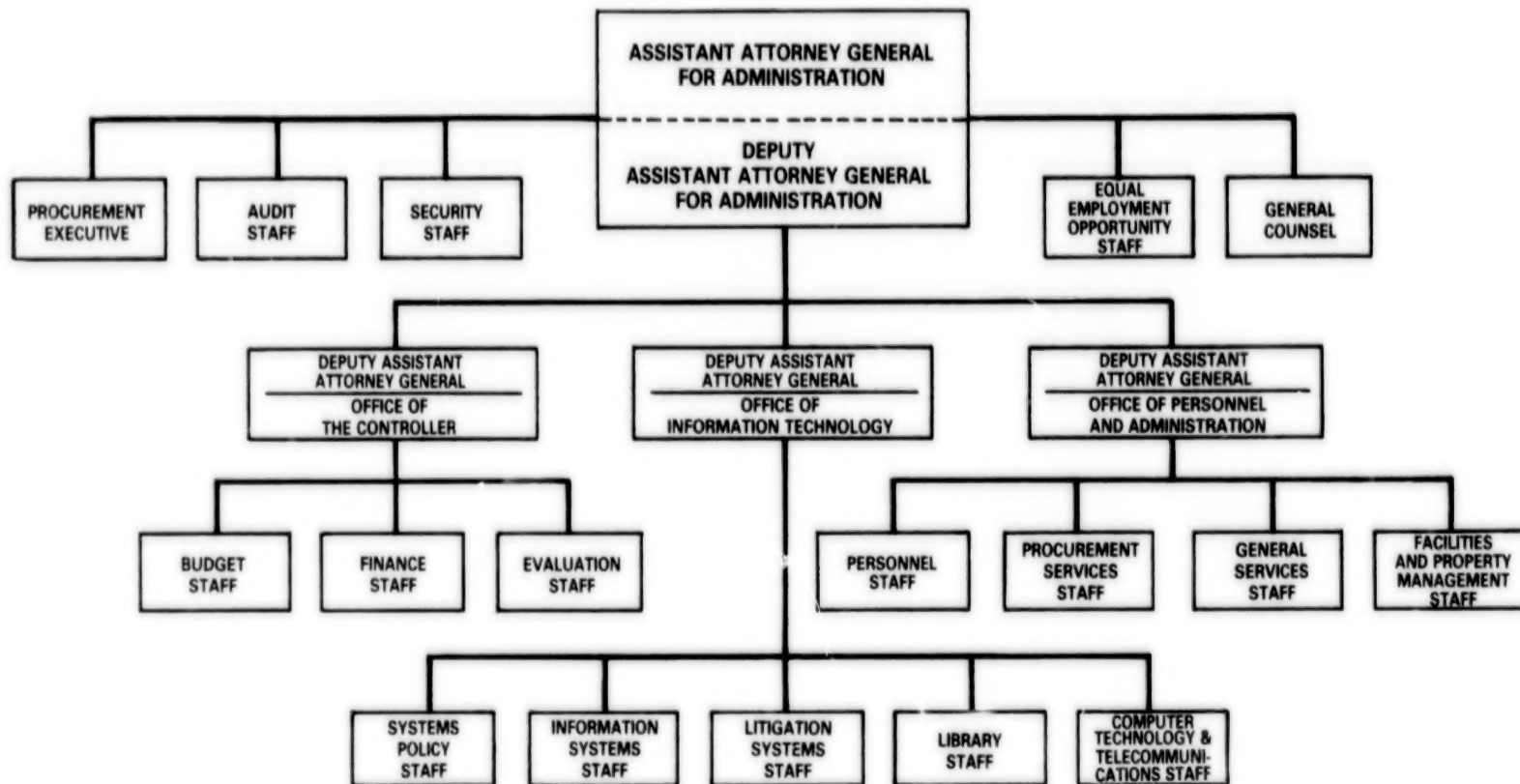
The Counsel generally conducts a preliminary inquiry into misconduct allegations which fall within the responsibility of the Office. Those cases in which there appears to be a violation of law are normally referred to the investigative agency

that has jurisdiction to investigate such violations. Other matters are referred to the head of the agency to which the employee is assigned or to the agency's internal inspection unit. Some matters are investigated by the Counsel and his staff.

The heads of the Department's offices, boards, divisions, and bureaus report to the Counsel matters involving misconduct by their employees. The Counsel submits to the Attorney General an annual report reviewing and evaluating the Department's various internal inspection units. The Counsel also makes recommendations to the Attorney General on the need for changes in Department of Justice policies or procedures that become evident during the course of the Office's activities.

During Fiscal Year 1985, the Office of Professional Responsibility received 400 matters within its responsibility and closed 340 matters. The Office also monitored more than 1,600 investigations conducted by the internal inspection units of the Department's component agencies.

JUSTICE MANAGEMENT DIVISION



Justice Management Division

W. Lawrence Wallace
Assistant Attorney General for Administration

The Justice Management Division (JMD), under the direction of the Assistant Attorney General for Administration, performs two primary functions: it acts as a point of central policy control and oversight with regard to management issues across the Department; and it provides direct administrative services to the offices, boards, and divisions and, to a limited extent, the bureaus of the Department.

JMD serves as the Department's principal liaison with other federal management agencies, including the Office of Management and Budget, the Office of Personnel Management, the General Services Administration, and the General Accounting Office. The Division is also the Department's principal liaison on budgetary matters with the appropriations and authorization committees of the Congress and their subcommittees.

Within the Division, staffs are grouped into three offices, each directed by a Deputy Assistant Attorney General. The Budget, Finance, and Evaluation Staffs constitute the Office of the Controller; the Systems Policy, Information Systems, Litigation Systems, Library, and Computer Technology and Telecommunications Staffs form the Office of Information Technology; and the Personnel, Procurement Services, General Services, and Facilities and Property Management Staffs make up the Office of Personnel and Administration.

Five components with sensitive areas of responsibility report directly to the Assistant Attorney General: the newly established Office of the Procurement Executive, Audit Staff, Security Staff, Equal Employment Opportunity Staff, and the Office of General Counsel. The Policy and Planning Office also reports directly to the Assistant Attorney General for Administration.

Office of the Procurement Executive

The Office of the Procurement Executive was established in November 1984. The Department's basic procurement policy function and the contract review function were transferred to this Office. With the passage of the Competition in Contracting Act of 1984, the position of departmental competition advocate has also been placed in the Office of the Procurement Executive. The Procurement Executive has the authority to issue, with the concurrence of the Assistant Attorney General for Administration, Departmentwide procurement policies and procedures, to conduct pre-award review of contract actions, and to conduct onsite reviews of contracting operations throughout the Department of

Justice. The Procurement Executive also issues standards to enhance performance of the procurement work force. With the establishment of this Office and reorganization of the other staffs, the Department is now in a position to fully accomplish the goals of Executive Order 12352 and other Administration and congressional initiatives directed toward procurement reform.

Among the more significant actions within the Procurement Executive's responsibility in Fiscal Year 1985 are:

- **Justice Acquisition Regulations.** In January 1985, the Assistant Attorney General for Administration issued the Justice Acquisition Regulations (JAR). The JAR implements and supplements the Federal Acquisition Regulations which is the single, unified procurement regulation system issued by the General Services Administration, the Department of Defense, and the National Aeronautics and Space Administration. The JAR, because it is a Departmentwide regulation system, has demonstrated its effectiveness by providing a level of consistency and standardization in the Department contract process that was previously lacking in our highly decentralized procurement operations. For example, the JAR clarifies the lines of contracting authority, particularly where higher level approvals are required, provides a uniform format for contract files and contract documentation, and implements the Department's procurement reorganization. Other topics of interest include procedures for initiating debarment and suspension proceedings and contract clauses to protect industry and government rights in data used or produced in performance of a contract.
- **Pre-award Contract Review.** During 1985, the Contract Compliance and Review Staff reviewed 475 contracts valued at \$277,227,571 for legal sufficiency prior to award. In addition, the Staff initiated a Departmentwide procurement management review designed to evaluate the effectiveness of the overall quality of the procurement systems within the Department. The review will be completed by early 1986.
- **Competition Advocacy Program.** The Competition in Contracting Act of 1984 prescribes that the head of each executive agency shall designate, for the agency and for each procuring activity within the agency, one officer or employee to serve as an advocate for competition. The role of the advocates is to assure that no

contract is entered into without full and open competition on the basis of a lack of planning or concerns that fiscal year appropriations will expire. On January 31, 1986 through 1990, the head of each executive agency is required to submit to Congress a report of actions taken and planned to be taken for the purpose of increasing competition in contracting. During 1985, an agency competition advocate and advocates for each procuring activity were designated and are currently considering several policies aimed at improving the Department of Justice's competitive posture. Integral to the Department's competition advocacy program is an advance procurement planning system designed to identify, during the budget process, major initiatives which will be performed under contract. Through advance planning, maximum practicable competition will be incorporated within the Department's procurement process in a manner which will aid in ensuring timely contractor delivery of a high quality of goods and services at a reasonable cost.

Audit Staff

The Audit Staff is responsible for conducting independent reviews of Department organizations, programs and functions, as well as external audits of expenditures made under Department contracts and grants. These reviews take the form of expanded scope auditing, including work in examining financial statements and determining compliance with applicable laws and regulations, economy and efficiency of operations, and effectiveness in achieving program results.

The Audit Staff's work plan provides balanced audit coverage of the Department while remaining responsive to Department management's needs in achieving more efficient and effective operations. In consonance with its work plan, the Audit Staff responds to audit requirements established by federal regulations and requests from Department management. The Audit Staff completed 26 internal audits and issued 57 reports in Fiscal Year 1985, some of the more significant being:

- Drug Enforcement Administration's Foreign Cooperative Investigation Program. This audit was international in scope and found that the administrative procedures established for the program did not always provide for economical and efficient management in the areas of defining and assigning duties, controlling budgeted resources, recruiting and training personnel, and planning program operations. Recommendations stressed ways to improve program operations.
- Federal Prison Industries, Inc., Inventory Management. This audit recommended that a systematic approach to its inventory management would enable

Federal Prison Industries to better monitor raw material inventory levels and prevent slow-moving inventory build-ups.

- U.S. Trustees. The Audit Staff contributed significantly to the integrity of the bankruptcy system in the U.S. Trustees' pilot judicial districts by performing financial audits of debtors under chapter 11 and trustees under chapters 7 and 13 of Title 11 of the U.S. Code.

Under Office of Management and Budget Circulars A-128 and A-110, the Audit Staff has lead audit cognizance for 48 state and local units of government and 169 not-for-profit organizations. In compliance with the provisions of these circulars, the Audit Staff performed quality compliance reviews and issued 228 reports on 797 contracts and grants, covering \$205,058,039, during Fiscal Year 1985, resulting in realized cost savings of \$1,442,132 with an additional \$95,864 recovered.

As in previous years, the Audit Staff continued to focus on reducing the incidence of fraud, waste, and abuse in Department operations and activities. Toward that end, the Audit Staff conducted special audits as necessary and was updating Department of Justice Order 2900.5, Responsibilities for the Prevention, Detection and Reporting of Waste, Fraud and Abuse in Department of Justice Programs and Activities.

Security Staff

The Security Staff formulates and monitors Departmentwide policies and procedures for personnel and document security, automated data processing (ADP) and telecommunications security, physical security, Sensitive Compartmented Information security, occupational safety and health, wartime civil emergency preparedness and domestic emergency planning. The Security Staff performs its various functions under the authority of Executive orders, Office of Management and Budget circulars, Attorney General orders, National Security Council intelligence directives, Director of Central Intelligence directives, and Department of Justice orders promulgated by the Security Staff. It reviews personnel security investigations, grants security clearances, and maintains personnel security files and records; provides guidance on the proper care, custody, and control of National Security Information and Sensitive Compartmented Information; and issues policies designed to safeguard ADP/telecommunications resources from accidental or intentional misuse.

The Security Staff also establishes and monitors physical security standards for the Department's offices and buildings; provides a safe working environment for Department employees; develops wartime emergency plans and procedures; and establishes plans and procedures for responding

to resource emergencies, domestic disaster emergencies, internal security emergencies and peacetime nuclear emergencies.

Some of the Security Staff's major accomplishments in Fiscal Year 1985 include:

- The training of additional personnel to assist in the implementation of the Security Procedures of the Classified Information Procedures Act of 1980. The Staff provided extensive security support to the federal judiciary, the U.S. Attorneys, and various defense counsels in protecting classified information in litigations in approximately 15 Classified Information Procedures Act cases. The most prominent of these are the "Walker spy ring" cases.
- The implementation of a Departmentwide Secure Voice Telephone (STU-II) program involving the eventual distribution and installation of approximately 200 STU-II telephones nationwide; 36 STU-II units have been installed.
- The development of law enforcement-related contingency plans that deal with civil disorder and threats or attack against nuclear facilities, the coordination of training and development of operational plans to support governmentwide continuity of government programs which ensure the continuation of a constitutional form of government during national security emergencies, and the legal review of Federal Emergency Management Agency documents regarding actions to be taken during a national security emergency.

Other notable Staff achievements include extensive safety and health inspections and tests in satellite buildings believed to contain polychlorinated biphenols (PCB's); continued security support to the Office of the Deputy Attorney General regarding the Organized Crime Drug Enforcement Task Force effort nationwide; the development of a contingency security plan for the Attorney General regarding the physical security of the Main Justice Building and visitor access controls; continued conduct of the Security Surveys/Inspection Program including the inspection of the 28 Organized Crime Strike Force offices as requested by the Assistant Attorney General, Criminal Division; and the publication, review, and updating of existing departmental orders regarding the various security programs.

Equal Employment Opportunity Staff

The Equal Employment Opportunity Staff is responsible for developing, monitoring, and evaluating Departmentwide equal employment opportunity policies and procedures. The Staff provides direct support services to the various offices, boards, and divisions in the areas of complaint processing and affirmative recruitment. Additionally, the Staff pro-

vides technical assistance to bureau-level equal employment opportunity staffs, departmental managers, and employees, and serves as liaison with the various bureaus, the Equal Employment Opportunity Commission, the Office of Personnel Management, and the Merit Systems Protection Board.

During Fiscal Year 1985, Staff efforts were directed primarily toward enhancing the Department's recruitment efforts and improving the complaints processing program. The Staff undertook a number of actions designed to attract a diverse pool of highly talented applicants for employment by: 1) attending major conferences sponsored by organizations of minorities, women, and handicapped individuals; 2) establishing and maintaining contacts with numerous organizations and institutions with significant enrollments in memberships of targeted individuals; and 3) informing the public of the Department's mission, programs, policies, and employment opportunities.

Recruitment efforts have resulted in impressive gains of minorities, women, and handicapped individuals in major employment categories such as attorney, deputy marshal, criminal investigator, immigration inspector, border patrol agent, and correctional officer positions.

Some of the Staff's major activities and accomplishments during Fiscal Year 1985 included the following:

- Cochairing the Interagency Committee on Women in Federal Law Enforcement, sponsored jointly by the Department of Justice and Department of the Treasury, to enhance opportunities for women in the field of law enforcement.
- Sponsoring a two-day conference and training seminar for all Department of Justice equal employment opportunity staffs. Participants included representatives from the Equal Employment Opportunity Commission, Civil Rights Division, and the JMD Personnel Staff, as well as outside consultants.
- Developing interim regulations for processing complaints of discriminations pursuant to Section 504 of the Rehabilitation Act of 1973, as amended, as these relate to nondiscrimination in Department-conducted programs and activities.
- Monitoring the Department's equal employment opportunity complaint programs to ensure compliance with appropriate procedures. The Staff continued to focus on the fair resolution of complaints at the informal stage and the reduction in average time for processing formal complaints.

Office of General Counsel

The primary mission of the Office of General Counsel is to furnish legal advice to JMD staffs in such areas as budget,

appropriations, procurement, and personnel. The Office also reviews regulations prepared in JMD for legal sufficiency and advises JMD officials (and occasionally other Department officials) on the Freedom of Information Act, the Privacy Act, the Ethics in Government Act, and other statutes. The Office also assists the litigating divisions in preparing cases involving actions taken by JMD. In addition, the Office reviews all legal process served by mail naming the Attorney General as a defendant. The Office of General Counsel serves as the liaison with the Office of Management and Budget in implementing Executive Order 12291, Federal Regulation, which requires that the Office coordinate the production of the semiannual regulatory agenda. The Office of General Counsel also serves as the liaison with the Small Business Administration in implementing the Regulatory Flexibility Act, which provides for the periodic review of rules issued by the Department to determine whether they have or will have a significant economic impact on a substantial number of small entities. Finally, the Office coordinates all Ethics in Government Act compliance endeavors; provides legal advice regarding administrative questions to other departmental components, as requested; and coordinates the Attorney General's responsibilities under the Newspaper Preservation Act.

Among the Office's accomplishments in Fiscal Year 1985 were the following:

- Provided legal advice to JMD staffs and other Department of Justice components on a variety of legal questions.
- Reviewed approximately 122 procurement actions for the Procurement Services Staff, and assisted in the implementation of a reorganization of procurement functions in the Department.
- Reviewed Department orders and comments on pending legislation.
- Served as liaison with the Department's litigating divisions in cases in which JMD was an interested party.
- Provided training and consultation for deputy designated agency ethics officials in all components of the Department to assist them in providing advice and assistance to employees on matters involving ethics and standards of conduct.

Policy and Planning Office

In response to the Attorney General's concern for improved management and administration, the Assistant Attorney General for Administration formed the Policy and Planning Office in February 1985. This Office serves as the lead organization for creating Department policy pertaining to the implementation of the President's management improvement and productivity improvement program and

legislative programs aimed at management improvements and cost savings. The Office also monitors and reports progress in accomplishing the Department's management and productivity improvement agenda. The Office represents the Department in its contacts with the Office of Management and Budget and all federal departments and agencies on matters relating to Reform '88, the Grace Commission, the President's Council on Management Improvement and the President's Council on Integrity and Efficiency. In support of its mission, the Office has focused Departmentwide attention on such issues as central management functions, Departmentwide ADP planning, sharing administrative services in the field, a Department Case Management System, productivity reviews, a centralized payroll/personnel system, and a centralized accounting system.

The notable achievement of the Policy and Planning Office in Fiscal Year 1985 has been the establishment of a Department of Justice management and productivity improvement program which articulates the Attorney General's management and productivity goals for the Department. Other significant accomplishments include:

- The establishment of a Management Forum, consisting of senior level managers from each Department component, to provide advice on the planning process, share information and accomplishments, and address initiatives which have cross-cutting implications for the Department.
- The development of the Department's management and productivity improvement plan in support of the Department's Fiscal Year 1987 budget.
- The development of the Department's A-76/Productivity Improvement Plan for Fiscal Year 1985 through Fiscal Year 1987. The Plan includes a summary of recent productivity accomplishments, an inventory of Department functions which fall within the 14 commercial categories prescribed by the Office of Management and Budget, and a schedule for completing reviews of those functions before the end of Fiscal Year 1987.
- The establishment of a combined budget and management improvement planning cycle commencing with preparation of the Fiscal Year 1988 budget. This will result in a five-year management and productivity improvement plan. It will also serve to provide the Department Resources Board with better and more timely information to make management and budget-related decisions.

Office of the Controller

The Office of the Controller is responsible for all budget and financial activities, accounting operations, personnel

and payroll accounting information systems, internal control systems, program evaluations, organization analysis, and management assistance studies. The Controller serves as the Department's budget officer, the financial manager of the Working Capital Fund, and the Department's principal contact with congressional appropriations committees. In addition, this Office is responsible for supporting the Department's annual congressional funding level authorization and appropriation processes. The Office comprises three staffs: Budget, Finance, and Evaluation.

Budget Staff

The Budget Staff is responsible for Departmentwide budget formulation and execution functions. Oversight of these functions requires the Budget Staff to assist in the development of policy and program guidelines for budget estimates, develop budget instructions and procedures, review budget estimates and financial plans, and conduct financial as well as program analyses and reviews to assist top management officials in their assessment of the effectiveness and efficiency of utilization of the Department's resources.

The Staff administers Departmentwide controls on appropriations, reimbursements, outlays, employment ceilings, and other legal or administrative limitations pursuant to Office of Management and Budget or congressional directives. The Staff also conducts financial analyses, monthly status of funds reviews, and prepares reports on budget execution. Upon request, the Staff assists the Office of Legislative and Intergovernmental Affairs in assessing the personnel and funding resources required to implement various legislative proposals and handles a wide range of Office of Management and Budget and congressional inquiries related to both the operation and resource utilization of ongoing Department programs. During Fiscal Year 1985, the Budget Staff had several notable achievements:

- Within days following enactment of the Comprehensive Crime Control Act of 1984 (Title II of P.L. 98-473), the Budget Staff reviewed this 219-page statute, identifying the provisions in the Act with potential resource implications and distributing the analysis to all Department components. The Staff worked closely with all the affected organizations to develop cost and staffing requirements for each program. This effort culminated in the enactment of a 1985 supplemental appropriation which provided the resources necessary for the Department to implement this significant legislation.
- The Budget Staff provided significant analytical support to the Civil Division in establishing standard rates to charge for Department of Justice attorney fees under various fee-shifting statutes. This work was done in

response to a decision by the Deputy Attorney General to develop a standard rate applicable to all Department litigating components. An approved standard rate is expected to be published in the near future.

- The Budget Staff has made gains in automated support of its functions. The Staff now has five personal computers in place and is using them for resource tracking and analysis. Staff is taking advantage of the wide use of personal computers throughout the Department and exchanges data with other organizations in a computer-ready format.
- Further steps were taken to improve the financial operations of the expert witness activity within the Fees and Expenses of Witnesses appropriation. First, the quality and timeliness of financial management information was improved. Second, less funding was unnecessarily tied up in obligations for which payment would not be made. Third, an amendment to the 1986 budget request was prepared requesting that all funds appropriated to the expert witness activity be made available until expended. This change will alleviate some of the paperwork burden on the users of expert witnesses and should reduce the need for supplemental funding in the future years.
- The Budget Staff prepared an assessment of the staffing relationship between Executive Office for Immigration Review immigration judges and Immigration and Naturalization Service attorneys. This study assisted these organizations in their planning efforts and assignment of staff and resources to various regions of the country.

Finance Staff

The Finance Staff interprets and implements financial management policies and programs promulgated by the central management agencies. The Staff also collects and compiles summary data for external reporting to those agencies; provides technical leadership and support to the Department's financial, accounting, and information systems; and directs the Department's day-to-day financial management operations. In addition, the Finance Staff interprets government accounting principles and standards for the Department, approves the Department's financial management systems, coordinates the review of financial system operations, and promulgates policies for travel, cash management, and other fiscal functions.

The Finance Staff is also responsible for the development, maintenance, and operation of four major financial systems within the Department—the Accounting System for the Offices, Boards and Divisions and the U.S. Marshals Service (OBD/USMS Accounting System), the Financial Management Information System, the Central Payroll Accounting System, and the Debt Management System. Moreover, the

Finance Staff is responsible for developing a single, integrated financial management system (FMS) for the Department, as mandated by the Office of Management and Budget.

Notable achievements of the Finance Staff during Fiscal Year 1985 include the following:

- Implementation of a financial management system directive which fully embraces the objectives of Office of Management and Budget Circular A-127 and other related circulars. The directive prescribes the policies for establishing a single, integrated FMS; managing the evolution of the FMS; and establishing FMS management responsibilities.
- Submission of the Department's FMS Plan with the 1987 Budget. This is a key initiative in the Department of Justice management and productivity improvement program. The FMS will provide the opportunity for consolidating financial operations and systems management.
- Establishment of the Assets Forfeiture Fund to account for assets forfeited to the federal government under the laws enforced by the Department. The Fund, authorized under the Comprehensive Crime Control Act of 1984, will improve the management of both seized and forfeited assets by centralizing management control within the U.S. Marshals Service.
- Replacement of the personnel/payroll systems on-line inquiry services. The new data base, PERSPAY, is accessible via FOCUS, a fourth generation retrieval language which is easier to use and substantially greater in capability than the replaced software.
- Provision of Direct Deposit/Electronic Funds Transfer of employee savings and checking account allotments in response to a Department of the Treasury requirement. This project affected the payroll accounts of approximately 20,000 employees.
- Automation of the Performance Management and Recognition System, and the Merit Increase and Performance Award System. The former was a major change to the old Merit Pay System; the latter is a new feature that provided automatic cash awards for merit pay personnel based on performance ratings.
- Development of a contingency plan for delivery of salary checks in the event of an extended loss of postal services.
- Development of procedures for the deposit of criminal fine collections made by the U.S. Attorneys to the lockbox collection facility and implementation of procedures to disburse money, including collections for court-ordered restitution, to victims on whose behalf these payments were collected.

- Establishment of a nationwide Travel Management Center for the offices, boards, and divisions. This will improve the Department's oversight of travel costs and travel policies.
- Expansion of the General Services Administration contractor-issued Charge Card Program to include the issuance of travelers checks to be used by employees to cover subsistence and other allowable transportation expenses.

Evaluation Staff

The Evaluation Staff is responsible for: 1) evaluating Department programs to provide decisionmakers with information on program efficiency and effectiveness, 2) analyzing management or organizational problems upon request and recommending solutions to those problems, and 3) reviewing all formal proposals for reorganization of departmental entities. In addition, the Staff has an implementation, coordination, and oversight role for the Internal Control Process within the Department. Until June 1985, the Evaluation Staff had a Departmentwide coordination responsibility for the President's Management Improvement Program (Reform '88).

The Evaluation Staff completed several major program evaluation and management assistance studies in Fiscal Year 1985. The Staff assessed the feasibility and desirability of implementing a private prison industry program in the Federal Prison System; reviewed the Drug Enforcement Administration International Training Program, funded by the Department of State; evaluated the performance of the Community Relations Service's Program Operations component relative to the achievement of its statutory mandate; managed an interagency task force which developed a conceptual model to aid federal law enforcement agencies in improving their planning for severe emergency situations; established that the National Criminal Justice Reference Service serves as a legitimate and nonduplicative information service which cannot be provided by the private sector nor consolidated with similar services provided by other federal agencies; and, in response to a congressional request, prepared a summary of the use, costs, and benefits of Administratively Uncontrollable Overtime.

The Staff conducted a variety of activities in connection with its coordination and oversight responsibilities for the Department's Internal Control Process. In particular, the Staff prepared the Attorney General's internal control report to the President and the Congress indicating that the Department fulfilled the requirements of the Federal Managers' Financial Integrity Act and Office of Management and Budget Circular A-123 during Calendar Year 1984. The Staff also developed Part II of the Department's Internal Control Guide; this section of the Guide provides instructions on conducting the activities (e.g., Internal Control Reviews) re-

quired during the second year of the two-year process. In-depth quality assurance reviews were conducted of four organizations' implementation of internal controls as prescribed by the Federal Managers' Financial Integrity Act. As part of the Department's internal control training program, the Staff initiated a two-day internal control review course which is offered regularly at the FBI Academy in Quantico, Virginia. Finally, a new automated tracking system will provide the Department with the ability to monitor the implementation of the Internal Control Process and to respond to external requests and reporting requirements.

Within its reorganization review responsibilities, the Evaluation Staff reviewed six major and several minor reorganization proposals.

Under its Reform '88 responsibilities, which encompass the President's Management Improvement Program, the President's Private Sector Survey on Cost Control (Grace Commission) and the Productivity Improvement Program (Office of Management and Budget Circular A-76), the Evaluation Staff submitted to the Office of Management and Budget the Department's Fiscal Year 1986 Management Improvement Plan; coordinated responses to three requests from the President's Council on Management Improvement regarding administrative services Departmentwide; provided the Office of Management and Budget information on cost savings resulting from implementing recommendations of the Grace Commission and on management and administrative support resources; and proposed to the Office of Management and Budget several governmentwide issues to be included in the Fiscal Year 1987 Management Review.

Office of Information Technology

The Office of Information Technology administers the departmental information and telecommunications systems policy and programs, provides direct information systems support to components of the Department of Justice, and manages large-scale, sophisticated data centers in Washington and Dallas in support of the offices, boards, divisions, and bureaus of the Department. The Deputy Assistant Attorney General for Information Technology is responsible for providing general supervision and direction of the day-to-day conduct of all functions and programs performed by the following staffs: Systems Policy, Information Systems, Litigation Systems, Library, and Computer Technology and Telecommunications.

Systems Policy Staff

The Systems Policy Staff, in accordance with the Attorney General's priority to strengthen the central direction, coordination, and oversight of the Department, is the coordinating office for the Departmentwide implementation of

the Information Resources Management Program, as established under the Paperwork Reduction Act of 1980.

The Staff consists of the Information Management Group, the Systems Assessment Group, and the Systems Planning and Review Group. Staff knowledge of related congressional and central management agency mandates and guidelines, departmental policies and priorities, and existing and planned departmental applications and services, enables the Systems Policy Staff to provide staff support for senior management decisions in the information resources area, to serve as departmental coordinators for related activities, and to provide liaison to appropriate central management groups.

During Fiscal Year 1985, the Staff:

- Coordinated the litigating divisions' efforts to address their information management requirements in a structured plan. Such an effort is an incremental step in developing a departmental automated information systems plan.
- Conducted a detailed analysis of the annual funding requests associated with information and technology. As a result of these reviews, the Staff identified key issues for senior management consideration including the opportunity for the litigating divisions to undertake a consolidated approach to satisfy their office automation needs.
- Served on the Federal Bureau of Investigation's Automated Identification Division System Technical Evaluation Team which awarded a contract to increase system support capability in a previously labor-intensive activity;
- Provided staff support to the Federal Bureau of Investigation effort to develop a prototype departmental case management system;
- Coordinated efforts with the Immigration and Naturalization Service to develop a strategy to satisfy Immigration and Naturalization Service information support needs and ensure compliance with departmental and federal requirements; and
- Drafted departmental orders concerning: 1) an information systems review board; 2) off-worksite use of information resources; 3) Information Resources Management, an "umbrella" order to identify existing departmental orders under the term Information Resources Management; and 4) information processing standards.

The Systems Policy Staff also coordinated the Department's response to the review of government information technology conducted by the Office of Technology Assessment, and to the call for detailed data on information systems requested by the Office of Management and Budget Bulletin 85-12. Finally, the Systems Policy Staff performed

the functions of the contracting officer's technical representative for the Justice Data Center's User Information Security Analysis; prepared the Department's Information Collection Budget; and developed a computer-based information resources directory, which serves as an inventory of application systems within the Department and a management reference guide to automated information systems.

Information Systems Staff

The Information Systems Staff is responsible for the development, implementation, and monitoring of Departmentwide policies and programs for office automation and systems development activities. The Staff provides related services to the offices, boards, divisions, and bureaus of the Department. The Staff develops large-scale applications systems which provide automated information processing in support of investigatory, litigative, and administrative activities of the Department, and provides office automation services, such as office automation studies, equipment evaluation, computer graphics, requirements analyses, litigation support microfilming, and electronic mail services for the offices, boards, divisions, and bureaus. The Staff also provides assistance to Department organizations in acquiring automated information systems to accomplish managerial and operational tasks.

During Fiscal Year 1985, the Staff:

- Conducted a requirements analysis and feasibility study, in direct support of the Office of the Deputy Attorney General, for the development of an automated governmentwide drug seizure system. The study recommended an approach subsequently approved by the National Narcotics Policy Board.
- Evaluated, tested, and began full operation of an electronic mail system allowing all executive and administrative components of the Department to communicate electronically.
- Converted and enhanced three data base systems for the National Institute of Corrections. The revised systems provide increased capabilities with a decrease in cost.
- Developed an internal controls tracking system for the Evaluation Staff, JMD, providing detailed information on the Department's implementation of the Office of Management and Budget Circular A-123 and the Federal Managers' Financial Integrity Act of 1982.
- Provided data base analysis and programming services in support of the Antitrust Management Information System.
- Provided software maintenance and technical support to the Department of the Army for the Publications Automated Index Locator System, which uses a data base management system in which the Staff has expertise.

- Issued Guidelines for the Acquisition and Use of Microcomputers.
- Administered a dial-up electronic bulletin board (PC Bulletin Board) for users of microcomputers. Through the Bulletin Board, the Staff provided advice to many personal computer users on the effective use and productivity enhancement opportunities of microcomputers and software.
- Provided guidelines to departmental components on the cost benefits in acquiring state-of-the-art facsimile equipment at less than what has been spent for old or outdated equipment.
- Administered a Departmentwide contract mechanism to provide litigation support microfilming services, thus eliminating administrative and procurement burdens for all Department components.
- Acquired a systems development methodology for use within the Department. The systems development methodology provides specific guidelines for systems development activities.

Litigation Systems Staff

The Litigation Systems Staff is composed of four services: the Legal Research and Training Service, the Litigation Assistance Support Service, the Legal Information Service, and the Systems Support Service. The Staff provides training, research, user assistance, and programming support for the Justice Retrieval and Inquiry System (JURIS); designs and develops special files in support of litigation; maintains, updates, and implements the Department's case management system; and designs nonlitigation special files.

JURIS is a computer-assisted legal research system available to the Department of Justice and to others in the federal legal community. The most important capability of the system is its power and flexibility in retrieving federal case law and statutes. During Fiscal Year 1985, the Staff trained over 2,200 representatives from the federal legal community on the use of JURIS. The Staff also added the following data bases to the JURIS system: 1) Equal Access to Justice Act, 2) the Narcotics Newsletter, 3) select criminal and civil monographs, and 4) the United States Attorneys' Manual.

In addition, the Staff developed a Personal Computer/JURIS program. This program allows a user to access the JURIS data base using an IBM compatible personal computer. This program emulates the full-screen and function key features of the custom-designed Sanders terminal. It converts 30 personal computer keys into function keys.

The Staff also provides computer-assisted litigation support. Although this function is another application of JURIS, it involves several additional system components, including special files designed and tailored to particular litigation.

tion with access limited to the trial attorney and/or litigation team.

The Staff also developed a prototype for computer-assisted litigation support for use in similar criminal cases. The Staff developed, in support of the Criminal Division and the Drug Enforcement Administration, a model drug diversion case utilizing a sophisticated data entry system with the personal computer in combination with the appropriate software for report generation. With minor modifications, this litigation support model can be utilized to support any similar drug diversion case.

Library Staff

The Library Staff provides a full range of library and related information services to the offices, boards, and divisions including reference, research, and acquisition services. It is also responsible for providing specialized support to sight-impaired attorneys, and others, within the Department of Justice and throughout the federal government. The Staff also manages the Department's Freedom of Information Act Reading Room.

The Department's Library System consists of the Main Library and six branch libraries (one per litigating division), operating at a total of 13 sites. The collection includes more than 300,000 volumes and more than 1 million items in microform. Comprehensive legal research assistance is provided to patrons with emphasis on on-line full text and bibliographic data base searching. During Fiscal Year 1985, new Computer Services and Legislative History Units were established within the Main Library's Readers Services Branch. A major emphasis was placed on data base searching in direct support of investigative and trial-level activities in addition to the more traditional methods of library support. An offsite storage facility was completed, utilizing over 3,000 linear feet of shelf space, of which some 70 percent is in space-saving, compact shelving. The Criminal Branch Library was moved to a new and expanded facility to better support the needs of the Criminal Division.

The process of automating all basic library operations was substantially completed. Microcomputers are now used for many different operational and administrative purposes within the Main and six branch libraries. One of the more important events in the history of the Department's Library System occurred on July 1, 1985, when an on-line catalog became available for both staff and patron use. The second edition of the Main Library Periodicals List was published, as were the first and second editions of the Consolidated Periodicals List.

As part of an ongoing effort to enhance the research capabilities of sight-impaired persons, the Sensory Assistance Center continued to be active in conducting demonstrations of available technology for automated law offices and in providing counseling to determine precisely

what equipment would best serve the needs of particular individuals. A comprehensive analysis of the history, operations, and productivity of the Center was initiated and substantially completed.

Computer Technology and Telecommunications Staff

The Computer Technology and Telecommunications Staff provides common user automatic data processing and telecommunications facilities and services to support departmental activities, and establishes and maintains policy regarding the use of voice and data telecommunications. The Staff is responsible for providing these facilities and services in support of the litigation, law enforcement, custody, immigration, management, and administrative missions of departmental organizations.

The Staff is composed of three major service groups: the Justice Computer Service, the Justice Telecommunications Service, and the Agency Assistance Service.

Staff resources and services are generally determined by the requirements of its user community. This often requires rapid reaction to meet both automatic data processing and telecommunications user requirements.

Such rapid deployment is illustrated by a request from the National Center for Missing and Exploited Children (a non-profit corporation which receives most of its funding from the Department's Office of Juvenile Justice and Delinquency Prevention) for access to the National Crime Information Center (NCIC) and the National Law Enforcement Telecommunications System (NLETS) via the Justice Telecommunications System (JUST). This request entailed an extensive effort by the Staff in expediting the Center's access to NLETS/NCIC. The Staff obtained authorization from NLETS to access the system, published the required notice in the Federal Register 30 days prior to NCIC access by the Center in adherence to the Privacy Act, and obtained approval of a complex agreement from all concerned parties.

The Staff also provided onsite and network control technical assistance to the Center during the April 1985 airing of the movie "Adam," as well as the accompanying showing of missing children. The single night's influx of over 2,000 calls resulted in an excess of 100 NLETS messages and the reuniting of at least four families.

The Staff continued to address user needs by providing enhanced networking services and implementing new lower cost data processing technologies. The Staff is in the process of converting from an older to newer state-of-the-art disk technology, thus increasing storage capacity by 100 percent with a reliability factor of 99.5 percent. Additionally, an acquisition to ensure sufficient disk storage through 1990 is scheduled for completion in the first quarter of Fiscal Year 1986; this acquisition will result in significantly increased capacity and a large reduction in cost.

Office of Personnel and Administration

The Office of Personnel and Administration is responsible for planning administrative management programs within the Department and for developing related policies and programs to support the various missions of the Department. The Office of Personnel and Administration comprises four staffs: Personnel, Procurement Services, General Services, and Facilities and Property Management.

Personnel Staff

During Fiscal Year 1985, the Personnel Staff developed the Department's policy directive to implement the performance appraisal and pay aspects of the Performance Management and Recognition System mandated by P.L. 98-615. As structured, the new directive provides component organizations with maximum flexibility to administer a comprehensive performance-based compensation program within the limitations of the guidelines imposed by the Office of Personnel Management. Under this system, which covers supervisory and management officials, GM-13 through GM-15, comparability increases and lump-sum awards are effectively tied to the performance appraisal process.

The Personnel Staff also coordinated the most successful Combined Federal Campaign in the history of the Department. Participation climbed to 71 percent; pledges exceeded \$579,800, a 20-percent increase over 1984; and, for the first time, the Department reached 100 percent of its goal in terms of funds collected.

In a continuing effort to assist the Department's components, the Personnel Staff successfully resolved a long-standing problem by obtaining from the Office of Personnel Management a single excepted appointing authority to fill some 500 interpreter and language specialist positions in the Immigration and Naturalization Service. The new Schedule A authority will give the Immigration and Naturalization Service the requisite flexibility to employ, on an as-needed basis, individuals proficient in both international languages as well as unusual dialects whenever and wherever they are needed. Similarly, the Office of Personnel Management provided the Drug Enforcement Administration with a Schedule A appointing authority for up to 200 positions to supplement their existing Schedule B authority, thereby providing an added measure of flexibility in the recruitment of criminal investigators. The new appointing authority will permit the Drug Enforcement Administration to recruit and employ criminal investigators with the unique skills and/or experience necessary for the effective prosecution of the war on illicit drugs.

To meet the recruitment and retention problems being experienced by the U.S. Attorneys' offices in the Southern and Eastern Districts of New York, the Central District of California, and the U.S. Trustee's office in Los Angeles, the

Personnel Staff obtained Office of Personnel Management approval for special salary rates above the current scale for legal clerks and technicians. In this connection, the Staff also served as the lead federal agency for the annual review of special rates for these positions governmentwide and, based on an analysis of federal quit rates and the compensation practices of private law firms, obtained special salary rate increases for the legal clerical occupation in 1986.

In accordance with the requirement to consult with the Office of Personnel Management on significant blocks (over 20) of new positions, the Personnel Staff secured Office of Personnel Management's concurrence in the establishment of 90 paralegal specialist positions to serve as Victim-Witness/Law Enforcement Coordinating Committee coordinators in the U.S. Attorneys' offices nationwide. This was in direct response to the Attorney General's decision to create the committees to enhance federal-state-local law enforcement cooperation and the need to implement Section 6 of the Victim and Witness Protection Act of 1982.

During the fiscal year, an expanded and improved Executive Development Program was also initiated. Thirty-five senior executive and management seminars, including eight new programs, were offered and attended by 894 Department employees. For the first time, one management seminar was given in the field and a completely new seminar on current law enforcement issues was developed and added to the series. In other areas, the first full year of microcomputer training was completed, comprising a total of 66 courses with 657 students in attendance. New paralegal courses in bankruptcy and automated litigation support were added to the curriculum, along with courses on legal office procedures and the legal secretary. Supervisory training in performance appraisal and how to deal with the problem employee were expanded while internal control training became an integral part of the supervisory training program.

Procurement Services Staff

The Procurement Services Staff consists of the Procurement Service and the Contract Administration Service. These groups are responsible for the award and administration of contracts and purchase orders which result in high quality goods and services at reasonable prices and timely support for continuing departmental programs as well as the expeditious start of new initiatives. In Fiscal Year 1985, this Staff awarded approximately \$73 million in new contracts, modifications to existing contracts, and small purchases. More than \$9.2 million was awarded to minority and disadvantaged firms.

All requests for expert witnesses are processed through the Special Authorizations Unit, which verifies availability of funds, secures the proper documentation and authorizes the use of expert witnesses. Approximately 2,950 expert witness agreements were authorized in Fiscal Year 1985.

The passage of the Competition in Contracting Act, which became effective April 1, 1985, has had and will continue to have a major impact upon contracting. The Act, as implemented by the Federal Acquisition Regulations, requires proposed sole source contracts to be announced to the public to seek alternate sources. It also requires approval of the action by a Competition Advocate, a high-level official outside the procurement organization. The Competition in Contracting Act causes fewer sole source contracts. Significant dollar savings are expected through opening up more procurements to full competition.

The Procurement Services Staff completed the following projects in Fiscal Year 1985 which were designed to streamline the procurement process and help ensure that proper procurement actions are made in support of the Department's needs:

- As a result of an internal audit report of the U.S. Attorneys, it will be necessary to establish formal contracts for grand jury court reporting in each of the 94 U.S. Attorney districts. Traditionally, these services were obtained informally by the cognizant U.S. Attorney using the litigative expense fund, and tight controls were lacking; formal contracts will resolve this problem. The Procurement Services Staff developed a standardized court reporting solicitation. This action utilizes, for the first time, in-court reporting contracts as a negotiated rather than a sealed-bid procedure. The standardized solicitations should allow for a relatively rapid and effective transition to contract coverage for this very large undertaking. Once these contracts are in place, (through competition and better management controls) significant cost savings should result.
- To further streamline the processing of small dollar value procurements, the delegated procurement authority of the executive officers of the legal divisions was increased from \$500 to \$1,000. This will allow more time for the more complex and higher value small purchases.
- Additional automation of the small purchase process was accomplished by acquiring terminals for the purchasing agent. This allows the agents to input directly into the automated procurement system, thereby eliminating several manual steps previously required to produce a purchase order. Also, the system now generates a buyer workload report which enables management to monitor buyer production, workload, and the time required to complete a small purchase action.

General Services Staff

The General Services Staff was established in November 1984 to consolidate a number of support functions which had been located in several staffs throughout the Division.

The Staff is divided into two major service areas: the Publications and Audio-Visual Services and the Mail, Fleet and Records Management Services.

The Publications and Audio-Visual Services provides printing, duplicating, distribution, and related services from in-house and commercial sources. It also provides audio-visual, graphics, and photographic services through the administration of the Department's Unified Communications Program. Major accomplishments include:

- The development of a comprehensive printing contract to assist in diverting work from our in-house operations to commercial contractors. The contract is being utilized by two bureaus in addition to Headquarters staff.
- The coordination of an agreement with the Government Printing Office under which federal agencies can obtain less expensive printing services through the Federal Prison Industries. This is expected to provide a much needed influx of publications type work for the federal inmate training program.
- Incorporation of major revisions into the commercial contract utilized for obtaining U.S. Supreme Court briefs of the Office of the Solicitor General within the tight production schedules and high-quality standards required by the Court.

The Mail, Fleet and Records Management Services provide mail receipt and distribution services; operate an active motor pool; and provide for Privacy Act Systems, forms, correspondence, records, and motor vehicle management functions for the Department. Major accomplishments include:

- The use of ADP technology for better estimating and documenting of the Department's annual postage cost of \$15 million; obtaining more modern sorting equipment and increasing personnel training resulted in overtime being virtually eliminated; and improving the timeliness and accuracy of mail deliveries through cross training and new performance work standards and evaluation procedures.
- The publication of a new edition of the Records Management Handbook. This easy-to-use guide simplifies records management, storage, and disposition instructions.
- The conduct of eight formal evaluations of the records management functions and five formal records management courses for Department employees.

Facilities and Property Management Staff

The Facilities Management Group successfully negotiated an agreement with the General Services Administration to commit two major blocks of space to the Department in the Judiciary Center and Patrick Henry Buildings. Fragmenta-

tion of the Department's legal divisions in Washington, D.C., has been a significant problem for many years. The addition of this new space will provide needed relief and permit partial consolidation of several of the divisions. More importantly, this new space will eliminate three buildings containing asbestos from the inventory and accommodate current expansion requirements.

The acquisition of new space in the Judiciary Center Building also allows consolidation of the offices of the U.S. Attorney for the District of Columbia in that building. Early in 1985, the U.S. District Court and the D.C. Superior Court directed that the U.S. Attorney's office for the District of Columbia vacate the space occupied in their respective courthouses. The first segment of personnel moved into the Judiciary Center Building in April 1985, and the remaining personnel are scheduled to move in early 1986.

As a result of recommendations made by the Cabinet Council on Management and Administration, the General Services Administration issued revised governmentwide regulations affecting real property and space management. In compliance with these regulations, the Property Management Group developed a comprehensive eight-point Real Property Initiatives Program which was presented to Department executives and real property managers during the Department's first Real Property Management Conference.

During Fiscal Year 1985, three Staff functions were successfully automated: bar coding of personal property, automation of the Department's centralized warehouse, and establishment of a Computer Assisted Design and Drafting System. The application of the bar code technology to account for the Department's accountable personal property has begun and computer encoded labels are now being ap-

plied to property located throughout the United States. Upon completion of this project, the Staff time needed to conduct and reconcile physical inventories is expected to be reduced by as much as 90 percent.

The inventory management and order processing portions of the Department's centralized warehouse were automated through the use of the networked personal computers. This application will ease labor-intensive procedures formerly in effect to review a requesting office's requisition. It will fill the office's needs in a timely fashion, and reorder issued supplies and equipment in a time frame which ensures uninterrupted support to the varied legal and administrative offices. The Computer Assisted Design and Drafting System will improve the capabilities for designing, planning, and accounting for all Department of Justice real property. Floor plans and associated information are being entered into the system and staff members are being trained to operate the equipment. In addition, several real property reporting programs have been written which run on personal computers and provide improved accounting and planning capabilities.

The Property Management Group coordinated and provided logistical support for the highly successful 50th anniversary ceremony commemorating the dedication of the Main Justice Building. In addition, the Group researched, wrote, and published a 50th anniversary book tracing the history of the Department from the creation of the Office of the Attorney General in 1789 to the present time.

The Justice Building Services designed and installed a Master TV Antenna System to provide enhanced audiovisual services to senior departmental officials. This system provides coverage of the major news networks, Cable News Networks, C-Span, and in-house broadcasts of Main Justice Building ceremonies and news conferences.

Office of Intelligence Policy and Review

Mary C. Lawton
Counsel for Intelligence Policy

The Attorney General has significant responsibilities for ensuring that all U.S. foreign intelligence and counterintelligence activities are conducted in strict compliance with the Constitution and laws of the United States. As head of the Department of Justice he has ultimate responsibility for Federal Bureau of Investigation efforts to counter the activities of foreign powers and their agents against the United States, as well as to thwart the efforts of international terrorists in the United States. Executive Order 12333, United States Intelligence Activities, and the Foreign Intelligence Surveillance Act of 1978 further impose on the Attorney General the duty to assist all agencies in the intelligence community to ensure that their activities—in collecting foreign intelligence, counterintelligence and international terrorism information—are conducted lawfully.

The Office of Intelligence Policy and Review (OIPR), under the direction of the Counsel for Intelligence Policy, assists the Attorney General in carrying out these responsibilities. It represents the Department on committees and special projects of the intelligence community and represents the United States before the Foreign Intelligence Surveillance Court. Within the Department of Justice, OIPR provides legal advice and assistance on intelligence matters and serves, on request, as liaison with intelligence community agencies.

A major priority of the Attorney General is the expansion of the Federal Bureau of Investigation's counterintelligence program and its efforts to combat international terrorism. OIPR assists in this effort through presentations to the Foreign Intelligence Surveillance Court and assistance in securing expeditious approval of authorizations for the conduct of investigations. Moreover, it works with intelligence community committees and task forces to improve controls on the export of vital technologies—a critical aspect of the government's counterintelligence effort.

The Office provides legal and policy advice on a wide variety of matters relating to national security activities to various officials of the Department of Justice and the executive branch. OIPR plays a significant role in the development and interpretation of procedures that govern the conduct of intelligence and counterintelligence activities in the United States and abroad, which require the Attorney General's approval under Executive Order 12333. It assists components of the Department in developing memoranda of understanding with agencies in the intelligence community

concerning joint operations and the dissemination and use of intelligence information.

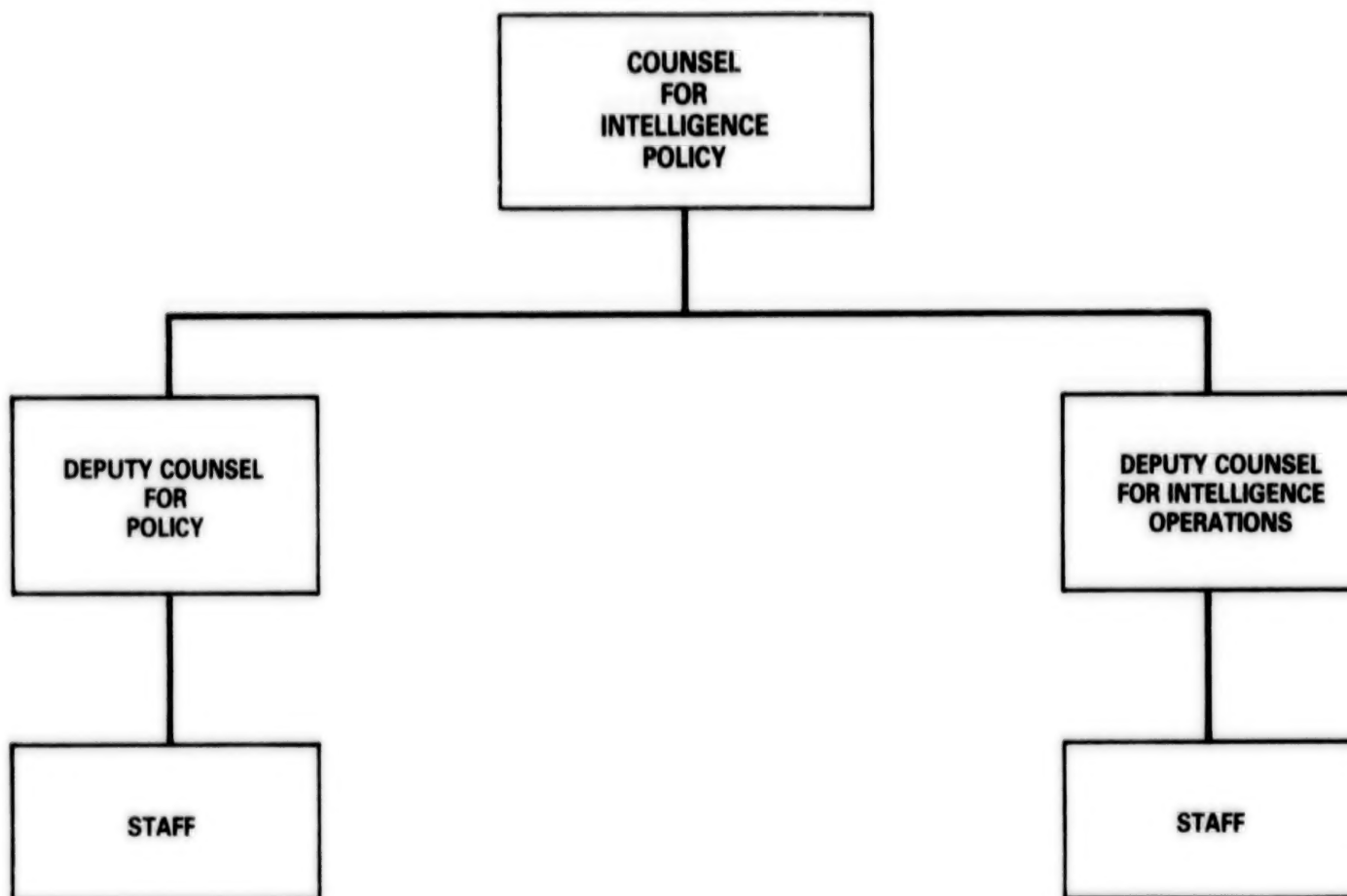
The Office provides legal advice and assistance to the Department and other executive branch agencies concerning Executive Order 12356, which establishes standards for the classification of national security information. It played a significant role in the revision of the Department's regulations on protecting national security information. OIPR serves as the reviewing authority for manuscripts submitted by Department employees who are under an obligation to submit such documents for prepublication review to ensure that classified information is not disclosed. It also chairs the Department Review Committee which is responsible for monitoring classification decisions in the Department.

OIPR, in conjunction with the Office of Legal Counsel and the Emergency Programs Center, Security Staff, Justice Management Division, provides advice to the Federal Emergency Management Agency and other executive branch agencies concerned with emergency planning. It also provides briefings on issues relating to Presidential succession and participates in emergency planning exercises.

The Office represents the Attorney General and the Department on the National Foreign Intelligence Council; the Interagency Coordinating Committee for United States-Soviet Affairs; the Director of Central Intelligence Committee on Exchanges; the Technology Transfer Intelligence Committee; the Economic Defense Advisory Committee Working Group II; Interagency Groups concerning Counterintelligence, Countermeasures, and Strategic Technology; and various subcommittees and working groups of these and other entities. It provides staff support to the Attorney General and Deputy Attorney General in connection with their participation in the National Security Council.

In the area of intelligence operations, OIPR's responsibilities involve implementation of the Foreign Intelligence Surveillance Act and various guidelines and procedures governing the conduct of intelligence activities. Requests by the Federal Bureau of Investigation and other intelligence agencies that the Attorney General authorize the filing of applications to conduct intelligence-related electronic surveillance are reviewed by OIPR attorneys. Based on their findings of legal sufficiency and consistency with the Act, applications for electronic surveillance are drafted and recommendations are made to the Attorney General to ap-

OFFICE OF INTELLIGENCE POLICY AND REVIEW



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prove or disapprove these requests. If approved, OIPR attorneys present the applications to the Foreign Intelligence Surveillance Court. When required, legal memoranda and motions are also prepared and filed with the court.

OIPR attorneys play an increasing role in the prosecution of espionage and international terrorism cases in which electronic surveillance is involved. The Office prepares submissions to the courts concerning electronic surveillance authorized by the Foreign Intelligence Surveillance Court and, in certain instances, presents these directly to the courts. It advises U.S. Attorneys and military prosecutors on legal issues related to these surveillances and prepares or assists in the preparation of briefs involving electronic surveillance.

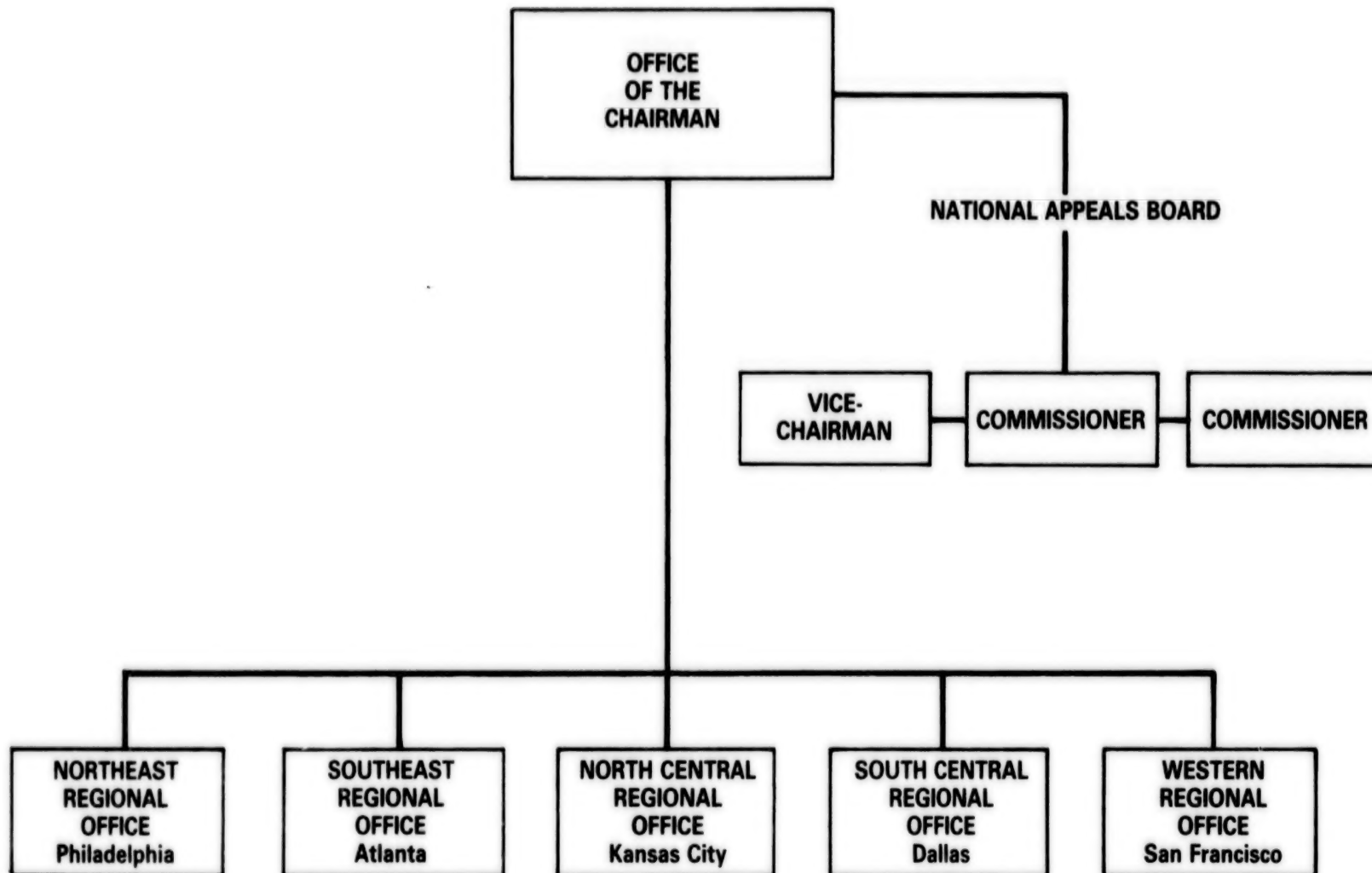
The Office annually reviews the logs of electronic surveillance to ensure compliance with court-ordered minimization procedures. It also prepares the Attorney General's annual and semiannual report to the Congress on electronic surveillance conducted under the Foreign Intelligence Surveillance Act. It regularly provides supplementary briefings to the House and Senate Intelligence Commit-

tees on electronic surveillances and other intelligence activities.

Guidelines for the Federal Bureau of Investigation and other intelligence agencies require Attorney General approval for certain activities. These are reviewed by OIPR and recommendations made for approval or disapproval. The Attorney General has delegated to OIPR the authority to approve or disapprove certain activities and, in those cases, authorization is given or withheld directly by OIPR. Under the Department of Justice Authorization Act, Federal Bureau of Investigation undercover activities in intelligence cases require Attorney General approval. OIPR reviews requests for approval of these activities and makes recommendations to the Attorney General.

The Office annually reviews Federal Bureau of Investigation counterintelligence cases to ensure compliance with the Attorney General's Guidelines. In addition, it reviews domestic security terrorism cases and receives reports to the Attorney General required by the Guidelines governing these cases. It also responds to Federal Bureau of Investigation requests for interpretation of these Guidelines.

U.S. PAROLE COMMISSION



United States Parole Commission

Benjamin F. Baer Chairman

The United States Parole Commission was established in May 1976 by the Parole Commission and Reorganization Act. Prior to that time, the agency was known as the United States Board of Parole, which was created by Congress in 1930.

The Commission is an independent agency in the Department of Justice. Its primary function is to administer a parole system for federal prisoners and develop federal parole policy. The federal parole policy is made explicit by the paroling policy guidelines developed by the Parole Commission. These guidelines have been influential in the movement to establish explicit decision guidelines for federal sentencing that culminated in the passage of the Sentencing Reform Act of 1984 (Chapter II of the Comprehensive Crime Control Act of 1984).

The Commission is authorized to grant or deny parole to any eligible federal prisoner, impose reasonable conditions on the release from custody of any prisoner on discretionary parole or mandatory release by operations of "good-time" laws, revoke parole or mandatory release, and discharge offenders from supervision.

In addition, the Commission is required, under the Labor Management Reporting and Disclosure Act and the Employees Retirement Income Security Act of 1974, to determine if certain prohibitions on holding office in a labor union or an employer group may be withdrawn for offenders who apply for exemption.

The Commission consists of nine Commissioners appointed by the President with the advice and consent of the Senate. The Commissioners are a policymaking body and meet at least quarterly for that purpose.

Hearing examiners in the regional offices and at Headquarters conduct parole hearings with eligible prisoners. They travel to each institution on a bimonthly schedule. The examiners function as two-person panels to conduct hearings and make recommendations to the Commission concerning parole and parole revocation.

The Commission is assisted by officials and staffs of the Bureau of Prisons, U.S. Probation Officers attached to each federal district court, and staff of the U.S. Marshals Service. The Bureau of Prisons staffs prepare institutional reports for the Commission, make the arrangements for hearings and carry out the release procedures to implement an order to parole. Probation Officers act, according to statute, as parole officers for the Commission. In that capacity they

make preparole investigations and reports and provide community supervision over prisoners released to the jurisdiction of the Commission. The U.S. Marshals Service is responsible for executing parole and mandatory release violation warrants and for transporting inmates.

Commission procedures seek to eliminate unnecessary uncertainty for incarcerated offenders regarding the date of their eventual release. By informing prisoners at the outset of confinement of their probable release date, the Commission reduces a source of institutional tension and enables both prisoners and staff to better organize institutional programs and release plans.

Under Commission regulations, all federal prisoners serving a maximum term exceeding one year are afforded parole hearings with 120 days of confinement at a federal institution except for prisoners with a minimum term of parole ineligibility of 10 years or more. These prisoners must serve their minimum term before receiving an initial hearing.

The Chairman and three Commissioners are stationed in Chevy Chase, Maryland. The other five act as Regional Commissioners for the Regional Offices in Philadelphia, Pennsylvania; Atlanta, Georgia; Kansas City, Missouri; Dallas, Texas; and San Francisco, California. The three Commissioners in Chevy Chase, Maryland, make up a National Appeals Board.

During Fiscal Year 1985, the Commission:

- Conducted 20,826 parole consideration and revocation determinations.
- Increased the guideline ranges for large scale cocaine offenses to more adequately sanction these crimes.
- At the request of the Department, prepared a detailed bibliography of sentencing reform and sentencing guideline materials for use by the recently created U.S. Sentencing Commission.
- Expanded a prehearing review process to enhance reliability in the Commission's decisionmaking practices.
- Continued to reinforce quality control procedures and provided increased training of Commissioners and staff to assist in maintaining consistent application of Commission policy.
- In conjunction with the Bureau of Prisons, instituted an experimental community service project in which

carefully selected offenders earn a two-month advancement of their parole dates by performing 400 hours of reparative work (community service) while in custody

of the Bureau of Prisons. A grant for this experimental project was awarded to the National Office of Social Responsibility by the National Institute of Justice.

Office of the Pardon Attorney

David C. Stephenson
Pardon Attorney

The President exercises the pardon power, conferred on him by Article II, Section 2, Clause 1 of the Constitution, upon formal application and the recommendation of the Deputy Attorney General, who has been delegated this function by the Attorney General.

The Pardon Attorney, in consultation with the Deputy Attorney General, receives and reviews all petitions for Executive clemency, initiates the necessary investigations and prepares the recommendation of the Deputy Attorney General to the President in connection with the consideration of all forms of Executive clemency, including pardon, commutation (reduction) of sentence, remission of fine and reprieve.

Under the rules governing petitions for Executive clemency the granting of a pardon generally is considered only after completion of sentence and a five to seven-year waiting period, depending upon the seriousness of the offense. The ground on which a pardon is usually granted is in large measure the demonstrated good conduct of a petitioner for a significant period of time after conviction and completion of sentence. All relevant factors, including the petitioner's prior and subsequent arrest record and his or her reputation in the community, are carefully reviewed to determine whether the petitioner has become and is likely to continue to be a responsible, productive and law-abiding member of society. In addition to the petitioner's conduct, the recentness and seriousness of the offense also are considered.

Although a pardon does not expunge the record of conviction, it serves as a symbol of forgiveness and is useful in removing the stigma incident to conviction, restoring basic civil rights, and facilitating restoration of professional and other licenses that may have been lost by reason of the conviction. Unless given for that specific reason, a pardon does not connote innocence.

Commutation or reduction of a prison sentence is a form of Executive clemency that is rarely granted. The President intervenes to reduce an inmate's sentence to time already served, or a shorter term, or simply to accelerate his or her eligibility for parole consideration, only in the most exceptional circumstances. Appropriate grounds for considering clemency may be disparity of sentence, terminal illness, meritorious service on the part of a petitioner, or other unusual factors.

Remission of fine and reprieve are less common forms of clemency. A remission of fine may be granted when further

collection efforts by the government would impose an undue financial hardship upon a petitioner. When a petitioner seeks remission of fine, his ability to pay and his good faith efforts to discharge the obligation are important considerations. Of course, the petitioner also must demonstrate satisfactory conduct. A reprieve temporarily suspends the effect of a sentence. Traditionally, reprieves have been used to delay the execution of a death sentence.

It may be said generally that the President's pardoning authority is absolute and extends to all offenses against the United States, excepting only impeachment cases. He has no authority to pardon state offenses. The decision to grant or deny a pardon is wholly discretionary with the President. The exercise of the pardoning authority may not be limited by legislative restrictions and is not subject to review by the courts. There is no appeal from a clemency decision.

Although not required to do so, the President has directed promulgation of certain rules governing the processing of petitions for Executive clemency. Despite the fact that these rules are published in 28 Code of Federal Regulations 1.1 *et seq.*, they are regarded as internal advisory guidelines only. They are intended primarily for use by officials concerned with the consideration of clemency petitions, and neither create enforceable rights in clemency applicants nor restrict the President's constitutional pardoning authority.

Consistent with the President's goal of improving the criminal justice system, the Pardon Attorney, in consultation with the Deputy Attorney General, has taken a more exacting approach in determining the worthiness of applicants for clemency than generally prevailed in the past. This has entailed more careful screening of applicants and more thorough background investigations, as well as the application of stricter standards for granting pardon and commutation. The purpose of the new approach is to ensure that successful pardon applicants demonstrate highly exemplary conduct and reputation, and that commutations of sentence are granted only in the most extraordinary circumstances.

Executive Clemency Statistics

In Fiscal Year 1985, 256 pardon petitions and 151 commutation petitions were received. The President granted 32 pardons and commuted the sentences of three individuals. The total number of clemency petitions granted during the year (35) represents a historic low and is virtually the smallest

number of yearly grants in this century. Of 1,042 clemency petitions available for consideration during the fiscal year, 279 were denied or closed administratively. During the year the Pardon Attorney received a total of 13,965 pieces of correspondence, reports and memoranda, and mailed out 14,868 items, including responses to 232 congressional inquiries and to 825 White House and special referrals.

The following is a tabular representation of Executive clemency case statistics concerning pardon and commutation actions taken for Fiscal Years 1981 through 1985.

(P = Pardons; C = Commutations of Sentence)

FY	Received		Granted		Denied		Closed Without Action		Pending at end of FY	
	P	C	P	C	P	C	P	C	P	C
1981*	339	208	76	7	42	35	77	105	510	169
1982	283	179	83	3	258	123	81	85	371	137
1983	298	149	91	2	74	33	96	103	409	147
1984	289	158	37	5	99	31	95	101	467	168
1985	256	151	32	3	86	18	66	109	539	189

*In FY 1981, President Carter granted 74 pardons and seven commutations; and President Reagan granted two pardons and no commutations.

Federal Bureau of Investigation

William H. Webster
Director

The Federal Bureau of Investigation (FBI) investigates violations of over 200 categories of federal statutes, collects evidence in cases in which the United States is an interested party, and performs other duties imposed by law or Presidential directive. In addition, it is the responsibility of the FBI to conduct all foreign counterintelligence investigations within the United States.

If a possible violation of federal law under the jurisdiction of the FBI has occurred, it is investigated and the facts of the case are presented to the appropriate U.S. Attorney or Department of Justice official who will determine whether prosecution or further action is warranted.

During Fiscal Year 1985, top priority investigative emphasis has been assigned to those areas that seriously threaten society the most—organized crime, foreign counterintelligence, white-collar crime, and terrorism.

Investigative Efforts

Organized Crime

The mission of the Organized Crime Program is to identify, investigate, and develop significant cases against traditional and nontraditional organized crime groups for prosecution by the Department of Justice. The areas of national investigative priority within the Organized Crime Program have been identified as La Cosa Nostra/Sicilian Mafia, outlaw motorcycle gangs, ethnic groups and prison-spawned gangs and organized cartels dealing in narcotics trafficking. Investigations directed against these criminal elements center primarily on labor racketeering, narcotics trafficking, corruption of public officials, illegal infiltration of legitimate businesses, laundering of illicit funds, pornography, illegal gambling and gangland slayings.

The Attorney General's delegation to the FBI of concurrent jurisdiction with the Drug Enforcement Administration (DEA) for investigations under the Controlled Substances Act, Title 21, U.S. Code, has enabled the FBI to concentrate on a multijurisdictional approach against major drug violators and their financial assets. As a participating member of the Organized Crime Drug Enforcement Task Force, the FBI has directed its resources against major international narcotics trafficking organizations, outlaw motorcycle gangs, high-level smugglers, distributors, manufacturers, financiers, and corrupt public and law enforcement officials.

As of August 31, 1985, the number of cases being managed under the FBI's Narcotics Program was 2,033. Of that number, 747 were investigations conducted jointly with DEA, and 426 were Organized Crime Drug Enforcement Task Force investigations.

A proven effective investigative technique is the court ordered Title III electronic surveillance. In Fiscal Year 1985, the FBI initiated a total of 151 Title III electronic surveillance installations and obtained 94 extensions within the Organized Crime Program. Of these, 101 installations and 58 subsequent extensions were in narcotics-related investigations.

A formidable weapon used to dismantle organized crime's enterprises has been the government's ability to obtain court-ordered forfeitures of assets which were acquired with illegal funds. During Fiscal Year 1985, FBI investigative efforts against organized crime resulted in 3,083 convictions and pretrial diversions, including a number of organized crime members and associates, and 4,190 indictments and informations. Additionally, organized crime investigations resulted in \$14,575,583 in fines; \$384,917,734 (including narcotics) in recoveries, restitutions, and court-ordered forfeitures; and \$47,249,525 in potential economic loss prevented.

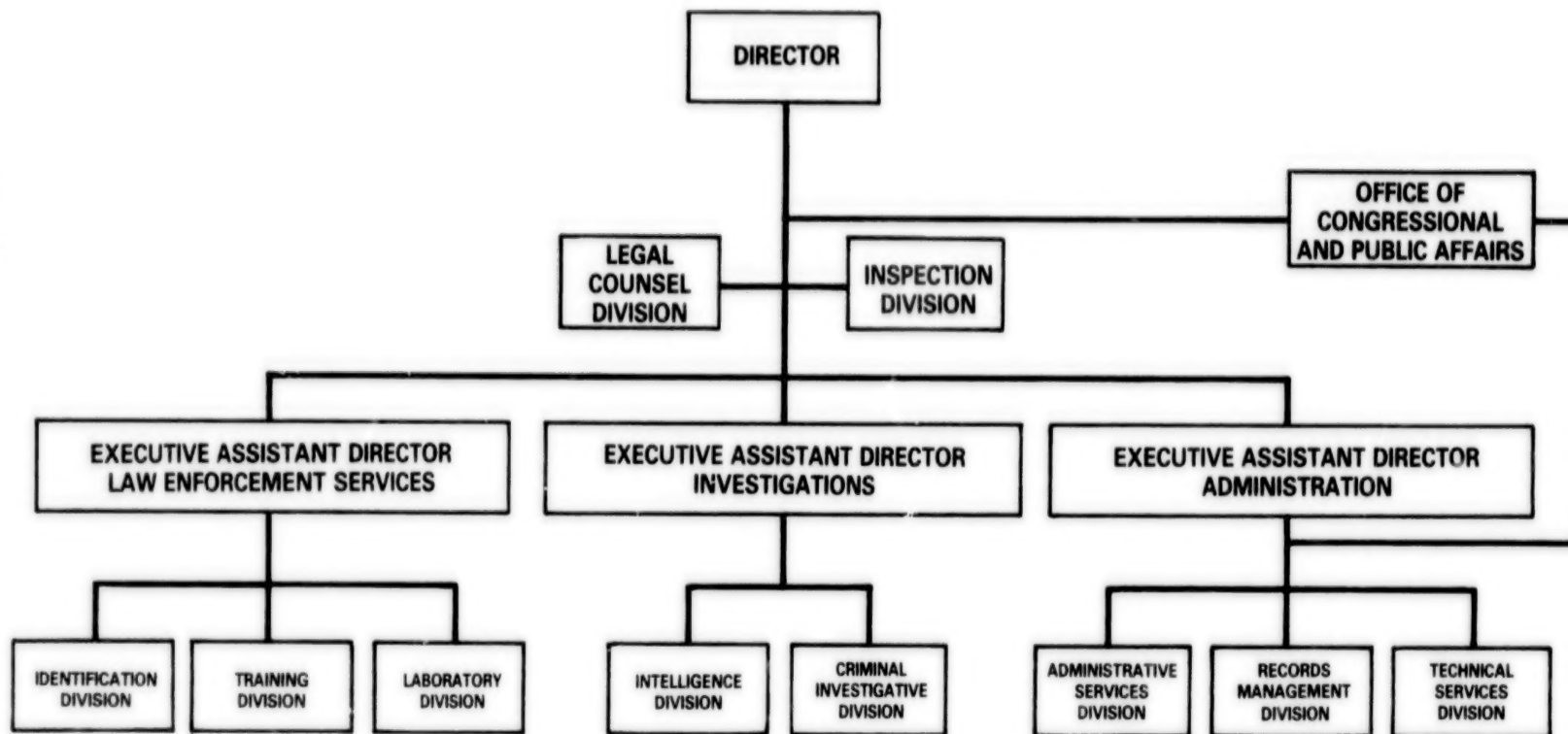
Intelligence information concerning organized criminal activity disseminated to state and local law enforcement agencies by the FBI on a regular basis resulted in 447 convictions, \$530,189 in fines, and \$2,091,726 (including narcotics) in recoveries, restitutions, and court-ordered forfeitures.

The following accomplishments are indicative of the successes the FBI has had in Fiscal Year 1985 in its national priorities with the Organized Crime Program:

On January 14, 1985, a New York City Carpenters Union official, associated with organized crime, and two chief officials of a drywall corporation in Brooklyn, New York, were arrested for violation of the Racketeer Influenced and Corrupt Organizations (RICO) statute and multiple counts of mail fraud, Taft-Hartley, and tax violations in a scheme to defraud various union benefits funds. Also arrested were six other officers and supervisory employees of the drywall firm. This investigation was a joint FBI/Internal Revenue Service case conducted with the Eastern District of New York Strike Force.

On February 25, 1985, a federal grand jury indicted the top leadership of the five New York organized crime families

FEDERAL BUREAU OF INVESTIGATION



under the RICO statute for operating a criminal enterprise known as the La Cosa Nostra Commission. This RICO indictment was made up of predicate acts of Hobbs Act extortion, murder, and labor racketeering. Included in the indictments were the bosses of the Genovese, the Gambino, the Luchese, and the Bonanno organized crime families and the acting boss of the Colombo family. On June 25, 1985, a superseding indictment was returned charging these individuals with extortion, labor bribery and extortionate credit transactions. Also on June 25, 1985, a federal grand jury indicted the boss of the Colombo organized crime family, and the consigliere of the Bonanno organized crime family, on charges of participating in the activities of the La Cosa Nostra Commission.

On May 1, 1985, organized crime family member, Giuseppe Balducci, was found guilty of violation of 21 U.S. Code 846. On May 27, 1985, he was sentenced to 7½ years to run consecutively with his previous five-year sentence. Balducci was surveilled exiting a residence with a package which was discovered to contain \$40,000 in cash and a sample of 89.6 percent pure heroin.

On May 7, 1985, Gus Curcio, an organized crime family member and Francis Curcio, an organized crime family associate, pled guilty in U.S. district court, Bridgeport, Connecticut, to charges of conspiracy and obstruction of justice. Both were sentenced to five years on each count to run consecutively and fined a total of \$15,000.

On April 2, 1985, Paul J. Leisure, Anthony Leisure, David Leisure, and other subjects were convicted on charges of RICO, obstruction of justice, and firearms violations. On May 1, 1985, Paul and David Leisure were sentenced to a total of 55 years. The captioned investigation is targeted at several murders committed by the Paul J. Leisure organized crime group in St. Louis, Missouri.

On January 14, 1985, six members and associates of the Pagans Motorcycle Gang, including two chapter presidents and one former national vice president, pled guilty to charges of RICO, narcotics, perjury, and federal firearms violations. On January 22, 1985, a former Roanoke, Virginia, Chapter president was found guilty of RICO conspiracy.

On February 6, 1985, eight members of the Outlaw Motorcycle Gang in Oklahoma were charged in a sealed indictment returned by a federal grand jury. All of the indicted subjects were charged with various violations, including narcotics, kidnapping, and arson.

On February 15, 1985, guilty verdicts were returned in Philadelphia, Pennsylvania, against eight defendants in the first of two trials directed at high-ranking members and associates of the Pagans Motorcycle Gang. All subjects were convicted of RICO, RICO conspiracy, and other counts.

On February 21, 1985, 82 individuals were arrested in a joint FBI, DEA, state and local investigation of the Band of Motorcycles Gang. Fifteen FBI field offices participated in

the arrests which also resulted in the seizure of approximately 150 firearms, various narcotics and related paraphernalia, and drug distribution records.

On May 2, 1985, 105 members and associates of the Hell's Angels Motorcycle Gang were arrested and charged with narcotics, RICO, and firearms violations. Searches conducted at over 50 locations resulted in the seizure of 100 firearms, explosives, files and records, and a computer and related software. This was a joint federal, state, and local law enforcement effort.

The United Bamboo is a Taiwan-based Chinese secret criminal society or triad which recently established branches in New York City, Houston, Las Vegas, Los Angeles, and San Francisco. This nontraditional organized crime group was identified as one of the evolving Oriental Organized Crime groups vying for control of the various criminal markets in the United States.

The FBI, New York, in cooperation with the New York Police Department, successfully introduced two undercover officers as members of this gang. During the covert phase of this investigation, four contract murders ordered by the United Bamboo were prevented, 451 grams of Southeast Asian heroin were purchased, and a variety of weapons including sawed-off shotguns, handguns and automatic weapons were recovered. On September 14, 1985, 12 persons in four cities were arrested in the process of negotiating a 300 kilogram heroin purchase by the undercover officer. This investigation led to the arrest in Brazil of a federal fugitive sought in connection with the murder of journalist Henry Liu at Dale City, California, during October 1984.

On June 5, 1985, 16 subjects were indicted by a federal grand jury for various narcotics violations. This investigation involved a major international heroin distribution network, between Nepal and the U.S., which was smuggling and distributing multikilo quantities of white heroin throughout the United States.

On May 26, 1985, the Chancellor for the Belgian Embassy, New Delhi, India, was arrested and later arraigned in the Eastern District of New York. He had delivered 10 kilos of heroin to an undercover agent in a diplomatic pouch bearing an official Belgian seal. This investigation also resulted in the recovery of 17½ kilos of heroin and \$85,000 in cash.

On July 19 and July 22, 1985, 132 persons were indicted by federal grand juries in Illinois and Indiana for various Title 21 violations. On July 23, 1985, 105 of those indicted were arrested. Civil forfeiture warrants for numerous automobiles and 47 business and residential properties were also executed. Numerous weapons, approximately \$400,000 in U.S. currency, and drugs and jewelry, valued in excess of \$1 million, were seized. Approximately 600 Agents and officers of the FBI, DEA and other federal, state, and local agencies served warrants in six states and the Commonwealth of

Puerto Rico. This was a joint FBI/DEA investigation into the Mexican Herrera Organization.

On August 13, 1985, a federal grand jury in State College, Pennsylvania, indicted five members of a cocaine smuggling organization. The group, responsible for the importation of large amounts of cocaine from Colombia, had gross sales in excess of \$5 million per month from 1978 through 1984.

An investigation conducted by the Philadelphia FBI regarding corruption in the Philadelphia Police Department resulted in the indictment of 34 personnel, including high ranking officials. The most recent significant indictments occurred August 8, 1985, in which five former Philadelphia police officers, including a former Chief Inspector, were charged with violations of the Hobbs Act statute. Of the 34 indicted police officials, 24 have been convicted, three were acquitted, and five are awaiting trial.

On July 13, 1985, as a result of a Chicago investigation code named "Operation Greylord," Richard L. LeFevour, a Chief Judge in the Cook County Court system was found guilty of 59 counts of violations stemming from his acceptance of bribes to fix numerous court cases. On July 19, 1985, Judge Wayne Olson, Cook County Circuit Court, and Attorney James J. Costello entered conditional pleas of guilty to charges of mail fraud and RICO. Twenty individuals have been convicted, including four judges, in this long-term undercover operation.

On April 25, 1985, a 23-count indictment was returned by a federal grand jury, District of Utah, charging four persons and Carlin Communications, Inc., with commercial distribution of prerecorded audio messages portraying sexual conduct. This indictment is the first of its kind in the United States specifically focusing on the dial-a-porn industry.

White-Collar Crime

White-collar crime consists of illegal acts that use deceit and concealment rather than the application or threat of physical force or violence to obtain money, property, or service; to avoid the payment or loss of money; or to secure a business or personal advantage. White-collar criminals occupy positions of responsibility and trust in government, industry, the professions, and civic organizations.

Fraud against the government cases involve fraud and bribery within the programs and functions of the U.S. government. The majority of these investigations involve the 13 departments and 57 agencies of the executive branch which annually disburse billions of dollars. These violations are normally committed by officials responsible for operating programs or the purported beneficiaries of these programs.

Public corruption matters are those investigations in which an individual in a position of public trust in federal, state, or local government, abuses that position in violation of federal law.

Financial crime matters involve schemes to defraud individuals and institutions by manipulation of events, documents, or large sums of money. These schemes include bank loan fraud, embezzlements, computer fraud, pyramid fraud, land fraud, and stock fraud. Financial crime matters also include the investigation of stolen and counterfeit stock and negotiable securities.

The FBI also addresses problems related to white-collar crime through its investigation of antitrust matters, labor violations such as of the Employee Retirement Income Security Act, Labor-Management Reporting and Disclosure Act, and federal election law matters.

Fraud Against the Government

The Civil Monetary Penalties Law (42 U.S. Code 1320a-7a) gives the Secretary of the Department of Health and Human Services authority to levy penalties against health care providers who submit fraudulent claims for reimbursement under the Medicare and Medicaid programs. To assist the Inspector General at the Department of Health and Human Services, the FBI, in February 1985, initiated change in its reporting procedures on health care provider fraud investigations. Upon the completion of an FBI criminal investigation, copies of all pertinent interview forms will be given to the Department of Health and Human Services Office of the Inspector General. The Office of the Inspector General has reported that this change has assisted in recovering funds under the Civil Monetary Penalties Law.

On November 2, 1984, Larry D. Barnette, Leo J. Barnette, and Thomas Gibbs were sentenced in U.S. district court, Jacksonville, Florida, following their convictions on governmental fraud and bribery charges, and Larry Barnette's corporations were fined in excess of \$100,000. The investigation in this matter, conducted jointly by the FBI and other federal agencies, determined Barnette had submitted inflated charges to the U.S. Army for basic services provided to overseas military installations.

Public Corruption

On August 22, 1985, former Mississippi State Senator Tommy Brooks was sentenced in federal court to nine years in prison, following his conviction on bribery charges. An FBI investigation had determined that Brooks, while President pro-tempore of the Mississippi State Senate, received a \$15,000 bribe for his support of legislation to legalize horse racing in Mississippi.

Recent FBI investigations of alleged public corruption and voter fraud in elections dating back to 1982 resulted in 58 convictions in Illinois, 10 convictions in New Mexico, 12 convictions in North Carolina, and 25 convictions in Texas. Public officials convicted included magistrates, sheriffs, commissioners, and county assessors.

Financial Crimes

During 1984, 79 banks failed and 27 savings and loan associations either failed or merged in lieu of failure. These failures represented the most that have occurred in a one-year period since the Great Depression. During the first nine months of 1985, the number of financial institutions that have failed or merged exceeded the total for 1984.

In April 1985, John Edward Thomas, former President, Metro Bank, Midland Texas, was convicted on bank fraud and embezzlement charges and sentenced to 25 years in prison and five years' probation. This matter was part of an FBI investigation involving the failure of three federally insured banks with assets of \$1.7 billion and losses of \$107 million.

During June 1985, Jacob F. Butcher, Chief Executive Officer, United American Bank of Knoxville, Tennessee, was sentenced to three concurrent 20-year sentences, following his conviction on bank fraud and embezzlement charges. Two of Butcher's associates, a loan officer and a financial consultant, received 15-year and 18-year sentences, respectively. This FBI investigation involved allegations of banking irregularities at 27 banks with assets of \$2.8 billion and losses exceeding \$424 million.

During Fiscal Year 1985, accomplishments for the White-Collar Crime Program include 4,432 convictions and pretrial diversions; \$18,334,649 in fines; \$551,678,562 (including narcotics) in recoveries, restitutions, and court-ordered forfeitures; and \$256,967,225 in potential economic loss prevented.

Antitrust and Civil Matters Program

As a result of evidence uncovered through FBI investigations in the Antitrust and Civil Matters Program during Fiscal Year 1985, there were 60 convictions and pretrial diversions, \$2,386,000 in fines imposed, \$360,477 in recoveries, and over \$39 million in potential economic losses prevented.

Foreign Counterintelligence

The FBI's Foreign Counterintelligence efforts have produced noteworthy successes in the past year.

Thomas Patrick Cavanagh, an engineer for Northrop Corporation, who attempted to sell undercover Agents classified documents relating to low observable technology (Stealth), appeared in U.S. District Court, Central District of California, and pled guilty to two counts of the indictment. On May 23, 1985, he was sentenced to serve two concurrent life sentences.

An investigation resulting in the arrest of an the East German co-optee, as well as the neutralization of two intelligence officers of the East German Intelligence Service, was initiated in 1981, when an FBI double Agent offered his services to the East German Intelligence Service. One of the

double Agent's handlers, a scientist without diplomatic immunity, traveled to the United States, where he was arrested by the FBI. The co-optee, Alfred Zehe, was indicted on charges of espionage. A known intelligence officer of the East German Intelligence Service was recalled by the East German government and another intelligence officer posted in Mexico was identified. On February 21, 1985, Zehe pled guilty to all eight counts of espionage and on April 4, 1985, he was sentenced to eight years in prison and fined \$5,000.

Alice Michelson, an East German national, aged 67, was arrested by the FBI on October 1, 1984, at John F. Kennedy International Airport. She had classified information in her possession and was attempting to board a Czechoslovakian airlines flight for Prague. On May 31, 1985, Michelson pled guilty and was sentenced to 10 years in prison.

On May 20, 1985, FBI Special Agents arrested John Anthony Walker, Jr., charging him with espionage. Walker, who retired in 1976, as a Chief Warrant Officer after 20 years with the Navy, was alleged to have been engaged in espionage since the late 1960's.

On May 22, 1985, Naval authorities arrested Walker's son, Michael Lance Walker, a 22-year-old enlisted man stationed aboard the "USS Nimitz," based on information that he may have been furnishing classified Naval documents to his father. Michael Walker has been turned over to federal custody and has been charged with aiding and abetting his father's espionage activities.

A third member of the Walker family, Arthur James Walker, brother of John Walker, was arrested by the FBI on May 29, 1985, at Norfolk, Virginia, and charged with supplying classified information to his brother for passage to the Soviets.

On June 3, 1985, a fourth suspect in the investigation, Jerry Alfred Whitworth, was arrested by the FBI at San Francisco, California. Whitworth, aged 45, retired from the U.S. Navy in 1983, as a chief radioman and cryptograph expert. During his Navy career, he had access to classified Naval information.

Arthur Walker waived the right to a jury trial in order that he could be tried before a judge. On August 9, 1985, he was convicted on seven charges of espionage.

Richard W. Miller, Svetlana Ogorodnikova, and Nikolay Ogorodnikov were arrested by the FBI on October 2, 1984, and indicted by a federal grand jury on October 12, 1984, charging 13 various counts of violation of the espionage statutes.

On June 26, 1985, Svetlana Ogorodnikova, and Nikolay Ogorodnikov pled guilty to one count of conspiring with Richard W. Miller to pass classified documents to the Soviet Union. Svetlana was sentenced to 18 years' imprisonment; Nikolay was sentenced to 8 years' imprisonment. Richard Miller's trial began August 6, 1985.

Following negotiations between the Department of State and an official representative of the Soviet-bloc governments, an agreement was reached culminating in the trade of Penyu Baychev Kostadinov, Alice Michelson, Marian W. Zacharski, and Alfred Zehe for 25 individuals who were arrested and convicted of engaging in espionage activities at the behest of the U.S. government. The trade took place in Berlin on June 11, 1985.

Terrorism

The FBI has the dual responsibilities of preventing terrorist acts through intelligence investigations and responding through criminal investigations when terrorist acts are committed.

The great majority of terrorist incidents that occur in the United States and Puerto Rico take the form of actual or attempted bombings and fire bombings against government, military, corporate, or other symbolic targets. Other terrorist incidents have included murder, hostage taking, shootings, and arson.

In 1985, there have been four terrorist incidents resulting in one death and two injuries. They consisted of two bombings, one assassination, and one attempted assassination.

On October 11, 1984, four members of the Justice Commandos of the Armenian Genocide were convicted of crimes relating to their involvement in making an explosive device. Three of these individuals were sentenced to terms ranging from four to six years in prison but the sentencing of the fourth individual was held in abeyance, pending defense motions.

On September 22, 1984, Eduardo Arocena, the founder of Omega 7, a fanatical anti-Castro Cuban exile terrorist group, was convicted in New York in connection with violent, criminal acts against Cuban diplomats and sentenced to life imprisonment plus 30 years. On April 24, 1985, Arocena was convicted on charges relating to his involvement in nine Miami, Florida, area bombings between 1979 and 1983 and was sentenced to 20 years in prison to be served consecutively with his New York conviction.

On September 25, 1984, Milton M. Badia, an Omega 7 member, was arrested in Miami, Florida, on conspiracy to manufacture illegal firearms. On February 12, 1985, Badia was convicted on these charges.

On September 9, 1985, two days prior to the expiration of the statute of limitations regarding the murder of Cuban attache Felix Garcia Rodriquez in New York on September 11, 1980, a federal grand jury in New York returned a six-count indictment against Omega 7 members Pedro Remon, Andres Garcia, and Eduardo Losada Fernandez. The three were charged with conspiracy to murder a foreign official and other charges. All three are currently serving five-year sentences for criminal contempt of the federal grand jury.

On July 31, 1985, simultaneous arrests of six individuals were made in three states. The six were charged with conspiring to violate the Arms Export Control Act in a scheme to acquire weapons for Iran to be used in terrorist activities in the Middle East.

On December 12, 1984, the FBI, working in concert with Immigration and Naturalization Service personnel, arrested James Gerard Barr in Philadelphia, Pennsylvania. Barr, a member of the Irish National Liberation Army, an Irish terrorist group which seeks British withdrawal from Northern Ireland, is wanted in Northern Ireland where he has been charged with the attempted murder of a British soldier. Barr is in Immigration and Naturalization Service custody awaiting the disposition of the extradition request of Great Britain for deportation.

On April 24, 1985, Liam J. Ryan was arrested by the FBI New York for making false, fraudulent, and fictitious statements stemming from weapons he purchased in a Provisional Irish Republican Army gun-running ring of 1982. On September 13, 1985, Ryan subsequently pled guilty to one count of the above charge.

In June 1985, at the request of the FBI, the Department of State denied entry into the United States of 16 individuals known to be involved in a plot to commit acts of terrorism within the United States. Additionally, a Libyan diplomat was declared "Persona Non Grata."

On January 9, 1985, eight individuals were indicted in Miami, Florida, following their arrests in connection with a plan to stage a coup against the government of Honduras to include the assassination of the incumbent President of Honduras, Roberto Suazo. On April 23, 1985, one of those indicted, Faiz Juan Sikaffy, pled guilty to charges of RICO and narcotics violations.

On May 4, 1985, four Sikh individuals were arrested in New Orleans, Louisiana, in connection with several conspiracies including a plot to assassinate the Chief Minister of an Indian State who was visiting the United States for medical treatment. On May 9, 1985, a fifth Sikh was arrested. These arrests prevented the assassination and also thwarted a plot to kill Prime Minister Rajiv Gandhi on his June 1985 trip to the United States.

On October 18, 1984, the FBI recovered, from the residence of Aryan Nations members, numerous weapons, ammunition, explosives, and target lists carrying the names of several local law enforcement and judicial officials.

On October 31, 1984, two members of the Sheriff's Posse Comitatus, a right-wing terrorist group, were arrested in Minnesota and charged with various firearms violations. Subsequent searches located explosives and a list of targets marked for bombing and assassination.

On February 21, 1985, nine individuals associated with the New Afrikan Freedom Fighters, a militant left-wing black terrorist group, were indicted on a 66-count superseding in-

dictment in New York, following their October 18, 1984 arrests by the New York FBI Joint Terrorist Task Force. Subsequent searches located numerous weapons, ammunition, explosives, and other criminal paraphernalia. A tenth New Afrikan Freedom Fighter was later arrested and indicted on armed robbery conspiracy charges. On August 5, 1985, a federal jury returned a guilty verdict against seven of the New Afrikan Freedom Fighter defendants on firearms violations and making false statements charges.

On March 12, 1985, a federal grand jury in the Eastern District of New York returned a 12-count indictment, charging seven individuals with responsibility for the 11 bombing incidents attributed to the United Freedom Front. Among those indicted were Raymond Luc Levasseur and Thomas William Manning, both on the "Ten Most Wanted Fugitives" list.

On March 17, 1985, Susan Lisa Rosenberg and Timothy A. Blunk, reputed members of the May 19th Communist Organization, a Marxist-Leninist group which openly advocates the overthrow of the U.S. government through armed struggle and the use of violence, were convicted in Newark, New Jersey, on federal firearms and illegal possession and transportation of explosives charges. On May 20, 1985, Rosenberg and Blunk were convicted and were each sentenced to 58 years in prison.

On March 26, 1985, Raymond Luc Levasseur, his common-law wife Patricia Gros, Richard Charles Williams, Jaan Karl Laaman, and his wife Barbara J. Curzi were indicted in Cleveland, Ohio. Subsequent searches after their November 1984 arrests resulted in tying these individuals to bombings claimed by the United Freedom Front, as well as to numerous bank robberies. On February 25, 1985, Patricia Gros was convicted in Ohio on one count of harboring and three counts of violating the false identity statute. On June 11, 1985, Jaan Karl Laaman was convicted, after trial in Bristol County Court, New Bedford, Massachusetts, for the attempted murder of two Massachusetts State Troopers. Laaman was sentenced on the same date to 39-45 years in state prison.

On April 22, 1985, James Ellison, the leader of The Covenant, the Sword, and the Arm of the Lord (CSA), a white extremist paramilitary group, and four members of "The Order" were arrested in Marion County, Arkansas, following a two-day siege of the CSA compound by federal officers. Subsequent searches located numerous firearms, explosives, ammunition, and eight antitank rockets. As a result of the above, an indictment was issued in Arkansas on April 24, 1985, against Ellison and other CSA members for RICO and mail fraud violations. On July 17, 1985, Ellison was convicted of a RICO violation, and on September 4, 1985, was sentenced to a 20-year prison term. Ellison also received two five-year prison sentences to run concurrently with his 20-year RICO term. Later, seven CSA members were

sentenced to terms ranging from two years' probation to 12 years in custody for their illegal activities with the CSA.

On April 24, 1985, Thomas William Manning and his wife Carol Ann Manning, also a Bureau fugitive, were apprehended in Norfolk, Virginia. He had been sought in connection with the murder of a New Jersey State Trooper in 1981, various bank robberies, and his involvement with Raymond Luc Levasseur in United Freedom Front bombings.

On May 11, 1985, Linda Sue Evans, Marilyn Jean Buck, and Laura Jean Whitehorn, May 19th Communist Organization associates, were arrested. A number of searches were conducted at "safehouse" locations. Their arrests and evidence recovered established a connection between the three women, the Armed Resistance Unit, and the Red Guerrilla Resistance. Also recovered were listings of bombing targets, along with materials which could be used to construct explosive devices. All three women were indicted on various federal charges. On August 2, 1985, Buck was convicted of escaping from the Federal Correctional Institute for Women at Alderson, West Virginia. She was sentenced to five years in prison to be served consecutively to the six years remaining at the time of her escape. On October 11, 1985, a federal jury in New York City returned a guilty verdict against Evans on a charge of being a convicted felon in possession of a weapon. In addition, Evans was arraigned on October 17, 1985, in New Orleans, Louisiana, on an 11-count federal indictment which charged her with firearms violations and making false statements in acquiring firearms and ammunition.

On May 23, 1985, Alan Berkman and May 19th Communist Organization member Elizabeth Ann Duke were arrested. Searches conducted subsequent to the arrests resulted in the recovery of dynamite, ammunition, and weapons, as well as documents linking these individuals to the Armed Resistance Unit and the Red Guerrilla Resistance.

On May 29, 1985, an indictment was returned in the Western District of Arkansas charging six individuals associated with the CSA with violations of the National Firearms Act. On August 7, 1985, all of those indicted entered guilty pleas.

Civil Rights Violations

The Civil Rights Program of the FBI investigates matters which involve actual or attempted deprivation of rights provided under the U.S. Constitution and the laws of the country. The three priority areas of the Civil Rights Program are racial violence, police civil rights misconduct (often known as police brutality) and involuntary servitude and slavery. Both civil and criminal matters are investigated in close coordination with the Civil Rights Division of the Department of Justice.

During Fiscal Year 1985, the FBI initiated over 6,700 investigations of civil rights complaints, almost 90 percent of

which were police misconduct cases. During this period, 38 felony and seven misdemeanor convictions were obtained in civil rights cases investigated by the FBI. The number 6,700 reflects a decrease from the FBI's reported investigation of over 9,400 civil rights matters for Fiscal Year 1984.

Racial violence cases continued to receive priority attention. Complaints in this area are monitored to determine whether patterns or common factors exist in what may otherwise appear to be isolated incidents. Eleven individuals were successfully prosecuted in federal court for activities involving violence and intimidation.

General Property Crimes

Property crime, which accounts for 89 percent of all reported crimes in the United States, increased three percent between the years 1975 and 1984. The General Property Crimes Program of the FBI includes investigation of crimes of armed robbery, burglary of jewelry, precious metals, artworks, and other valuable property, and thefts of automobiles, trucks, aircraft, and heavy construction equipment by individuals and organized criminal groups. These crimes often include acts of violence, and, in addition, the proceeds from stolen property are often utilized to finance large narcotics purchases.

In addition to the traditional reactive investigative approach, use of the undercover technique has proven to be extremely effective in combating property crimes. By utilizing Special Agents posing as thieves and fences, numerous theft rings have been penetrated and direct evidence has been obtained which has resulted in successful prosecutions of those directly involved in criminal activity, as well as high-level individuals who have previously insulated themselves from prosecution.

Property crime undercover operations have successfully penetrated organized automobile theft and "chop shop" operations throughout the country. In an undercover operation related to organized automobile theft in New York City, this approach resulted in the arrest of 123 subjects and the recovery of over \$1 million worth of stolen automobiles and related parts. As a result of the undercover operation and related media coverage, statistics showed that the percentage of auto theft in the New York City area decreased by 12 percent and 20 percent for the two months following the surfacing of the undercover operation.

Property crimes undercover operations have also helped in the increasing vehicle theft problem along the U.S./Mexico border. In another successful operation conducted in San Antonio, Texas, over \$3 million in stolen tractor trailer rigs, automobiles, and heavy equipment destined for Mexico was recovered. In addition, 215 individuals were arrested.

In 1985, the San Diego FBI office concluded a joint investigation with the U.S. Customs Service and the Naval Investigative Service involving the theft of unclassified F-14 jet

fighter parts from various U.S. installations and ships. The stolen parts were then shipped to England, under the guise of automobile parts, for transshipment to Iran. As a result of this investigation, over \$1 million worth of stolen parts were recovered and 10 individuals were arrested, nine in the United States and one in England.

Agriculture-related thefts have been increasing. In a recently concluded investigation in Omaha, Nebraska, the RICO statute was used to effect the arrest of 27 individuals involved in the theft of large quantities of grain, fertilizer, and farm chemicals in 10 Midwestern States. The investigation also resulted in the recovery of millions of dollars' worth of these products.

During Fiscal Year 1985, the General Property Crimes Program's efforts resulted in the conviction of 1,313 persons, 1,060 arrests, and 173 subjects located. In this period, stolen property in the amount of \$143,941,141 was recovered, of which \$3,472,495 was in narcotics; \$3,566,222 in fines was assessed; and \$185,205,374 in potential economic loss was prevented. One indication of the magnitude of the property crime problem is that during the first nine months of 1985, motor vehicle thefts reported to the FBI's National Crime Information Center averaged in excess of 84,000 vehicles per month with an average monthly loss value exceeding \$371 million.

General Government Crimes Program

The objective of the General Government Crimes Program is the thwarting of criminal activities directed against U.S. government property or individuals located on federal property. These crimes involve theft of government weapons, explosives, or high-value property, and acts of violence occurring on government reservations, in Indian country, and in federal penitentiaries. This includes approximately 430 major Department of Defense installations and 185 Indian reservations. During Fiscal Year 1985, 266 complaints and 959 informations and indictments were obtained, 1,024 persons were convicted, 683 persons were arrested or located, and recoveries amounted to \$6,384,507.

A 19-month undercover operation, "Ripstop," identified thefts and fencing of stolen military field equipment, resulted in the recovery of more than \$479,702 worth of stolen government property, and identified more than 170 persons involved in the crimes. Prosecutive action in U.S. District Court, Southern District of California, concerning the 66 active duty Marine Corps personnel indicted in this case, and most of the cases concerning surplus dealers in Oceanside, California, have been resolved with guilty pleas.

The Law Enforcement Coordinating Committee for the Eastern District of Pennsylvania sponsored a highly successful stolen property sting, "Operation Penrose," that recovered over \$2 million in stolen property. The project was designed to attract those dealing in property stolen from the

Philadelphia Naval Shipyard. A storefront called East Coast Recondition and Salvage, Inc., was set up with funding from the FBI, the State Attorney General's Office, the Philadelphia Police Department, and the Naval Investigative Service. After operating for 10 months in South Philadelphia, the project resulted in federal charges against 20 persons, state charges against 23 others, and military charges against three more. Undercover Agents successfully recovered over 30 late-model automobiles with a total value in excess of \$320,000, illegal narcotics valued at a quarter of a million dollars, and stolen securities worth in excess of \$1.5 million.

On May 31, 1985, a search warrant was executed at the office of Assistant U.S. Attorney for the Southern District of New York Daniel N. Perlmutter. Several empty DEA evidence envelopes and a slip of paper bearing the former combination of the evidence vault and the former and current combinations to the safe of Assistant U.S. Attorney Rhea Brechner, Chief, Narcotics Unit, Southern District of New York, were located.

An evidence inventory disclosed nine additional missing exhibits, presumably stolen, consisting of \$28,857 in cash, 10 bags of heroin and 1,100 Demerol tablets. On October 18, 1985, Perlmutter entered a guilty plea in the U.S. District Court, Southern District of New York, to a five-count information charging him with three counts of theft of government property and two counts of possession of Schedule I controlled substances. He is scheduled for sentencing in December 1985.

An investigation initiated in March 1982, by the Charlotte Division of the FBI culminated in the convictions of 25 military and nongovernment civilians during Fiscal Year 1985. The probe targeted the theft of millions of dollars' worth of stolen U.S. government property and centered on military bases located in eastern North Carolina.

Since January 1983, the Department of Justice has referred numerous Selective Service Act cases to the FBI for investigation. For the first nine months of Fiscal Year 1985, 580 cases were received, 210 of which were closed due to the individual registering or the fact that the individual was currently or had previously served in the U.S. military.

Personal Crimes

The FBI is active in the Attorney General's initiatives to combat violent crime through Personal Crimes Program investigations. This Program addresses violations involving common characteristics of threatened or actual personal injury or loss of life. These crimes include assaulting federal officers and other government officials, extortion, kidnaping, tampering with consumer products, theft of controlled substances, aircraft hijacking, and bank robbery.

In Fiscal Year 1985, Personal Crimes Program investigations resulted in 1,379 arrests, 2,295 indictments and infor-

mations, and 2,092 convictions and pretrial diversions. Over \$14 million worth of stolen or illegally possessed property was recovered and \$677,424 in fines were levied against subjects convicted in federal court.

Assaulting, Kidnaping, or Killing Federal Officers or Other Government Officials

The FBI investigates all matters involving an assault, kidnaping or murder of the President, Vice President, executive department heads, Supreme Court Justices, Members of Congress, certain federal law enforcement officers, and other designated government officials. Investigation of these offenses in Fiscal Year 1985 resulted in 77 convictions.

Extortion

Actual and threatened extortions of individuals, businesses, and financial institutions are investigated under federal extortion statutes and the Hobbs Act. Convictions were obtained against 123 persons in Fiscal Year 1985 for extortion and related crimes.

Kidnaping

The safe and speedy release of the victim is the FBI's primary objective in all kidnaping situations. Kidnaping investigations often require extensive and extended resource commitments. During Fiscal Year 1985, 74 persons were convicted for kidnaping.

On August 7, 1984, Mario De Jesus Portela, the 22-year-old son of a wealthy Miami, Florida, businessman, was abducted by three individuals. The victim's family received the first of a series of telephone calls shortly afterward in which \$2 million was demanded for his return. The Miami FBI Office initiated a full investigation under the kidnaping and Hobbs Act extortion statutes. On August 20, 1984, the victim's battered body was found in a rural area in Broward County, Florida.

An intensive investigation continued and resulted in the identification and indictment of four individuals involved in the abduction and murder of Mario Portela. On August 8, 1985, Julita DeParias and Jessie Ramirez were convicted of aiding and abetting and violation of the Hobbs Act, each was sentenced to the maximum penalty of 40 years in custody of the Attorney General and fined \$20,000. Hector DeParias (Julita's brother) had pled guilty earlier to similar charges and was sentenced to 40 years in custody of the Attorney General. In addition, Julio DeParias (also a brother of Julita) was charged but fled the country, presumably to South America. All of those convicted also face charges of kidnaping and murder, both of which are capital crimes in Florida.

The National Center for Missing and Exploited Children began operations in June 1984, and since that time, the Personal Crimes Kidnaping Program has benefited significantly from the publicity the Center has generated in displaying photographs of missing children. Any information of value

concerning an abducted child is immediately transmitted to the appropriate FBI field office. Information provided to the FBI by the National Center for Missing and Exploited Children has been instrumental in the recovery of several parental kidnaping victims and has assisted in the apprehension of some of the offending parents. During Fiscal Year 1985, the FBI located 94 abducted children.

Crimes Aboard an Aircraft

Crimes committed on board an aircraft, such as aircraft piracy, interfering with flight crew members, and carrying weapons aboard an aircraft are investigated by the FBI. Five actual or attempted aircraft hijackings occurred in Fiscal Year 1985. Crime aboard aircraft investigations led to 33 convictions during the year.

Bank Robberies and Related Crimes

Federal bank robbery statute violations include robberies, burglaries, and larcenies committed against federally insured banks, savings and loan associations, and credit unions. During Fiscal Year 1985, convictions in federal court for bank robbery and related crimes totaled 1,715. As a result of FBI investigative assistance provided, another 479 persons were convicted in state or local court.

Tampering with Consumer Products

During 1985, three persons were convicted on charges of threatening to contaminate consumer products.

In February 1985, the Charlotte Division of the FBI began an investigation under the new Federal Anti-Tampering Act after three extortionate letters were received by officials of R.J. Reynolds, Inc., at Winston-Salem, North Carolina. The letters contained threats to poison Camel cigarettes unless the company agreed to an extortion payoff of \$100,000. The payoff site selected by the extortionists was in Alberton, Montana. After extensive surveillance operations and psycho-linguistic and document examinations, three persons in this scheme were identified, arrested, and later convicted in U.S. district court. One of them, who had a prior federal conviction for extortion, was prosecuted under the new law and sentenced to five years' custody of the U.S. Attorney General. The two remaining subjects entered into pretrial diversion agreements.

Theft of Controlled Substances

Marvin A. Bartlett and Cary W. Strickland became the first two individuals tried and convicted under the Controlled Substance Registrant Protection Act of 1984. On September 28, 1984, they entered a pharmacy in Riverdale, Georgia, and took controlled substances along with money from the cash register. The pharmacist was forced to kneel down and was shot in the back by Bartlett. FBI Agents developed Bartlett and Strickland as prime suspects and further investigation confirmed this. Both men were arrested by

FBI Agents and subsequently convicted and sentenced to the maximum term allowable of 25 years in jail. During Fiscal Year 1985, theft of controlled substances investigations resulted in 14 felony convictions.

Violent Criminal Apprehension Program

The National Center for the Analysis of Violent Crime became operational on June 1, 1985 at the FBI Academy, Quantico, Virginia. One of the four missions of the National Center for the Analysis of Violent Crime is to provide a national data information center designed to collect, collate, and analyze all aspects of the investigation of violent crimes. This particular function is now under the supervision of the Personal Crimes Program as part of the FBI's Violent Criminal Apprehension Program. In the short period of time that it has been operational, Violent Criminal Apprehension Program analysis has proven to be a valuable tool that greatly assists in the identification of those responsible for violent crimes.

Fugitive Matters

Under the Unlawful Flight to Avoid Prosecution statute, the FBI assists local authorities in apprehending fugitives wanted for violent crimes such as murder, manslaughter, rape, robbery, or aggravated assault; for crimes resulting in the loss or destruction of property valued in excess of \$25,000; and for crimes involving substantial narcotics trafficking. During Fiscal Year 1985, 1,228 unlawful flight fugitives were arrested or located by the FBI, including 139 parental kidnaping subjects. In addition, the FBI's investigative programs were responsible for 7,705 arrests, 1,181 locates, and 1,862 summons served for various other violations under their jurisdiction.

An integral part of the FBI's efforts to effect the timely apprehension of its most sought after fugitives is the "Ten Most Wanted Fugitives" Program and the Identification Order fugitives. During Fiscal Year 1985, 33 Identification Order fugitives and nine "Ten Most Wanted Fugitives" were apprehended.

Since September 1981, the FBI has assisted DEA by locating and apprehending major DEA drug trafficking fugitives referred to the FBI for fugitive assistance. During Fiscal Year 1985, a total of 66 referred DEA fugitives were arrested or located.

The criminal investigative responsibility for Foreign Police Cooperation matters involves providing investigative and fugitive assistance in the United States to requesting foreign countries. In Fiscal Year 1985, the FBI investigated a total of 1,096 criminal Foreign Police Cooperation cases and apprehended or located a total of 14 foreign fugitives.

International Criminal Police Organization (INTERPOL) cases are handled as part of the Fugitive Program. A recent white-collar crime case involving the illegal transfer of \$2 million from a bank in the United Arab Emirates to the

United States made extensive use of the FBI/INTERPOL channel and resulted in one wire fraud conviction in the United States, the recovery of nearly all of the stolen funds, and the arrest of the prime subject in the United Kingdom. During Fiscal Year 1985, the FBI handled 384 cases through INTERPOL.

Applicant Investigations For Other Agencies

Pursuant to various statutes, Executive orders, departmental orders and agreements established with the Attorney General's approval, the FBI, upon written request from other agencies, has continued to conduct personnel background investigations concerning individuals who will occupy important and sensitive positions in the federal government. Among the principal agencies served in this regard are the White House, the Department of Justice, the Department of Energy, the Office of Personnel Management, the Administrative Office of the U.S. Courts, and certain congressional committees.

During Fiscal Year 1985, 4,171 background investigations and 615 expanded name checks were conducted by the FBI for other agencies under this program.

Cooperative Services

Training Division

To enhance the capabilities of FBI employees, as well as others in law enforcement, a variety of training programs are conducted at the FBI Academy, Quantico, Virginia, and throughout the United States.

Primary courses of training at the Academy during Fiscal Year 1985 were in the following four areas:

- New Agents (15-week course) - 470 graduates;
- FBI In-Services (Agent and Support) - 6,274 students, 257 classes;
- FBI National Academy (Mid-Level and Senior Police Administrators for 11 weeks) - 1,000 students, four classes; and
- General Law Enforcement Training (GLET - Criminal Justice Employees) - 3,675 students, 113 classes.

FBI Headquarters instructors and specially trained Agents assigned to the 59 field offices conducted 5,629 schools throughout the United States in which 199,326 law enforcement personnel received 65,888 hours of instruction.

The major theme for training sponsored by the FBI was the violent crime issue. Some courses were very specific, such as hostage negotiation, death investigation, interpersonal violence and sexual assault, crime prevention, and terrorism. Other courses related to dealing with overall crime in an effective and efficient manner. These courses were in the areas of internal auditing, planning and budgeting, crisis management, stress management, and other police-related topics.

Thirty police executives from large metropolitan areas attended the National Executive Institute, and 86 police executives from medium-sized agencies attended Law Enforcement Executive Development Seminars. One hundred and twenty-five mid-level FBI managers also received management training to enable them to perform more effectively and efficiently.

In-Service programs for FBI employees primarily covered white-collar crime, computer crime, organized crime, foreign counterintelligence, management development and related topics. Management training was afforded to 79 DEA managers in a cooperative effort to share training.

On May 24, 1985, the Attorney General authorized the transfer of DEA's training function to the FBI Academy in response to the recommendations of a joint FBI/DEA study. On October 1, 1985, the first DEA Basic Agent Class began training at the FBI Academy. The sharing of a common training facility is consistent with joint agency initiatives to avoid duplication and to improve effectiveness. The integration of FBI/DEA training is another example of the ongoing process of establishing a close, cooperative relationship between the two agencies.

At the request of the Attorney General's Economic Crime Council, the FBI Academy conducted two Computer Evidence Seminars for U.S. Attorneys to assist them in the proper handling of computer evidence and the legal obstacles to its introduction in court.

The FBI Academy also initiated very specialized training to address fraud that culminates in the failure of financial institutions, such as banks and savings and loan associations. During early 1985, the Department of Justice requested that the FBI present similar training to a combined group of Bank Examiners from the Federal Deposit Insurance Corporation, Comptroller of the Currency, Federal Home Loan Bank Board, Federal Reserve Board, and the Federal Credit Union Administration. This training was conducted in July 1985, and will be followed by four regional conferences to be held in Fiscal Year 1986. This training has been especially appropriate inasmuch as the United States experienced more bank failures in 1984 than at any time since the Great Depression.

In June 1985, the National Center for the Analysis of Violent Crime became fully operational at the FBI Academy. It is designed to provide resources, consultation, and expertise to any federal, state, or local law enforcement agency confronted with bizarre, vicious, or repetitive crimes of violence. The National Center for the Analysis of Violent Crime consists of four program areas: the Criminal Profiling Program; the Research and Development Program; Training Program; and the Violent Criminal Apprehension Program. In Fiscal Year 1985, the Behavioral Science Unit's assistance was requested in a total of 680 matters. These requests included telephonic and on-site consultations, requests for per-

sonality assessment, interview techniques, investigative techniques, prosecutive strategies, interrogative techniques, and criminal personality profiles. Requests for profiles were received for the following crimes: homicides-173, rapes-38, sexual assaults-16, child molestations-three, arson/bombings-15, robberies-five, kidnappings-23, assaults-two, equivocal deaths-nine, extortions-16, foreign counterintelligence matters-10, Violent Criminal Apprehension Program matters-160, and other Bureau matters-60.

The total number of victims for each crime category in which the Behavioral Science Unit assistance was rendered is as follows: homicides-137, rapes-137, sexual assaults-33, arsons-77, burglaries-seven, kidnappings-five, assaults-one, equivocal deaths-three, extortions-26, foreign counterintelligence matters-10, exhibitionism-75, and other Bureau matters-40.

Feedback from requesting agencies revealed that the Behavioral Science Unit assisted in the identification, prosecution, and/or convictions of offenders responsible for the following crimes: 24 subjects for 65 homicides, five subjects for 31 rapes, five subjects for 52 sexual assaults, two subjects for six kidnappings, and two subjects for two equivocal deaths.

A nationwide law enforcement training needs assessment project is being conducted by the Training Division. The second of 10 annual reports on the project has been forwarded to the Attorney General.

Two sessions of the Caribbean Police School for 32 foreign police officers and 11 Puerto Rico and Virgin Island officers were conducted in Puerto Rico for mid-management law enforcement personnel from the Caribbean area. These students were taught basic investigative skills and how to develop a training program in their respective departments.

Laboratory Division

The FBI Laboratory was established on November 24, 1932, and has grown into one of the largest, most comprehensive crime laboratories in the world. Since its inception, the Laboratory has been dedicated to the maximum utilization of physical evidence in support of the nation's criminal justice system.

The FBI Laboratory is divided into four major sections. These are the Document, Scientific Analysis, Forensic Science Research and Training, and Special Projects Sections. These Sections are subdivided into smaller units, each of which is equipped with state-of-the-art instrumentation which assists in the performance of a variety of related examinations. Each unit concentrates on specific forensic disciplines to ensure that the most comprehensive examinations are performed on the evidence submitted.

The work of the Document Section deals with the examination of physical evidence involving handwriting and hand printing, ink and paper, obliterations and alteration of

documents, and evidence involving shoe prints and tire treads. This Section manages the FBI Language Specialist Program in the field offices and translates and interprets a wide variety of written and spoken foreign language material, examines evidence records seized in drug cases and other illegal businesses, conducts cryptanalytic examinations of secret/enciphered communications, and manages the FBI Polygraph Program.

The Scientific Analysis Section is composed of eight units which handle a variety of highly specialized examinations such as chemistry, toxicology, arson, firearms, toolmarks, hairs and fibers, blood, metallurgy, mineralogy, number restoration, glass fractures, explosives, paints, plastics, and numerous related matters.

The Forensic Science Research and Training Center, located at the FBI Academy, Quantico, Virginia, is engaged in a full program of forensic science research to improve examination techniques and expand methodology to support field operations. Training is provided to federal, state, and local crime laboratory and law enforcement personnel to increase awareness of the probative value of physical evidence and improve their skills and technical capabilities.

The Special Projects Section provides forensic examination of photographic evidence and unique services and products helpful to both the investigator and prosecutor. The Section is responsible for the application and oversight of photographic operations and training as well as all exhibit functions. Onsite support related to both criminal and security investigations includes photographic surveillance, concealments, crime scene surveys, artist conceptions, and fabrication of specialized investigative devices. Prosecutive assistance, which also includes civil matters, entails preparation of demonstrative evidence such as trial charts and three-dimensional scale models. The Special Projects Section designs and fabricates commemorative plaques, medals, and public displays relative to the FBI's mission. Additionally, the Section is responsible for nearly all photographic processing for the Department of Justice in Washington, D.C., and FBI offices nationwide, as well as FBI Headquarters.

FBI Laboratory services are available to all federal agencies in civil as well as criminal matters and to all duly constituted state and local law enforcement agencies in criminal matters. Expert court testimony in support of Laboratory examinations is provided free of charge.

During Fiscal Year 1985, the Laboratory Division performed 1,149,873 scientific examinations on 159,125 specimens of evidence. Approximately 34 percent of all requests for examinations received were submitted from state, county, and municipal law enforcement agencies. Requests from FBI offices accounted for 62 percent and other federal agencies four percent.

The FBI Laboratory was requested to perform examinations in several cases that achieved national prominence dur-

ing the past year. Included among these was a case which began May 13, 1984, when the nude body of an exotic dancer was discovered in a field in a rural area of Hillsborough County, Tampa, Florida. The victim had been beaten, bound with a rope and strangled. Over the next six-month period, eight more bodies were discovered in various remote locations of the greater Tampa area. The victims were all young females, were either bound or found with knotted items, were usually associated with the "red light" district of Tampa, and red carpet fibers were found either on the victims or at the crime scenes.

On November 3, 1984, a 17-year-old Tampa girl was abducted, raped, and held for a period of 26 hours before being released. The items from this victim were submitted to the Laboratory and were processed. Red carpet fibers like the fibers which had been found on the previous victims were also found on this rape victim. This information was immediately relayed to the Tampa authorities. As a result, a task force consisting of personnel from the FBI and local law enforcement agencies was formed.

Based on information from the Laboratory and from the rape victim, Robert J. Long was arrested on November 16, 1984. Under the direction of the FBI, crime scene searches were conducted on Long's automobile and apartment. As a result, he was charged with nine counts of first-degree murder and with the rape and abduction of the 17-year-old girl. This was the largest serial murder case in the history of the Tampa Bay area.

On April 22, 1985, the first murder trial of Robert Long was held in Dade County, Florida. This trial concerned a homicide case in Pasco County, Florida. Long was found guilty of first-degree murder and was sentenced to death.

The FBI Laboratory provided forensic assistance to DEA in the murder investigation of Agent Enrique Salazar Camarena in Mexico. In addition to assistance in processing several crime scene houses and vehicles, Laboratory examinations of hair found in the alleged abduction vehicles established that they exhibit the same microscopic characteristics as Camarena's. Additionally, examination of soil from Camarena's body eliminated several potential grave sites and matched one potential site.

The Forensic Science Research and Training Center continues to provide specialized forensic science training to federal, state, and local crime laboratory personnel. A permanent staff of scientists perform research to advance the forensic sciences in support of the law enforcement and criminal justice communities. The visiting scientist and student intern programs are utilized as an economical and effective means of augmenting the research staff.

The specialized training held at the Forensic Science Research and Training Center is not available to state and local crime laboratory examiners from any other source. This training includes courses which are vital to the in-

vestigation of crimes of violence such as basic forensic serology, introduction to hairs and fibers, and laboratory examinations in arson matters. During Fiscal Year 1985, over 900 students received training in such specialized courses.

The Research Unit has established a research program concentrated in the areas of biochemistry, immunology, chemistry, and physics. This program is directed toward the development of new methods for forensic science. The ultimate goal is to develop and establish procedures to be used by the FBI Laboratory and state and local crime laboratories to benefit the law enforcement community. Fourteen research projects were completed in Fiscal Year 1985.

The results of research projects are made available to the crime laboratory community through articles in various scientific journals and the Crime Laboratory Digest, a publication of the FBI Laboratory.

Identification Division

By the end of Fiscal Year 1985, the number of individuals included in our Criminal File had surpassed the 23 million figure, with approximately 9 million of these people having automated criminal history records. An additional nine million name index records and about 17.5 million fingerprint cards are now automated. The FBI receives and processes a daily average of over 27,500 fingerprint cards, with an average in-house turnaround time of about 11 workdays.

In January 1985, the Division contracted with Science Applications International Corporation to design and implement the Automated Identification Division System, Phase III (AIDS-III). AIDS-III will use computers and modern work-transport technologies to integrate the Division's current automated arrest record information system, automated name search system, and automated fingerprint search system into one high-performance document processing system. The average processing time for a fingerprint card under AIDS-III will be less than 18 hours. AIDS-III is expected to be fully operational by the end of 1987.

During Fiscal Year 1985, the Division used three automated latent fingerprint searching capabilities to process latent fingerprints found at crime scenes. One capability uses descriptive information and classification data from latent fingerprints to search against the Division's 17.5 million automated fingerprint card file. A second capability uses the same descriptive information but adds fingerprint minutiae data from the latent prints to search against the automated data. The third capability uses descriptive information and digitized latent fingerprint minutiae data to search against a data base of approximately 200,000 highly active criminals. All three capabilities produce a list of possible case suspects. In March 1985, a computer search resulted in the Division's first identification in a criminal case involving a search with

digitized minutiae from latent fingerprints found at the scene of a crime. During the fiscal year, eight unsolved cases were solved by using these automated latent fingerprint search capabilities.

During Fiscal Year 1985, the Identification Division had several other notable achievements:

- The user-fee system, a program which charges a fee for the processing of certain fingerprint cards submitted for noncriminal justice employment and licensing purposes and uses the monies received to pay for the cost of processing such work, achieved new highs in its third year of operation. A total of 935,339 user-fee fingerprint cards were processed resulting in cash receipts of \$9,577,969.
- In December 1984, a program of searching certain illegible criminal fingerprint cards against the automated fingerprint card file was initiated. Previously, illegible fingerprint cards were searched by name only and if no criminal record surfaced, the card was returned to the contributor. Through September 1985, 173,231 illegible cards have been processed under this new program resulting in a total of 15,310 matches against prior criminal records. Of particular significance is the fact that 817 of these matches were against the records of wanted persons. While some of these wanted persons were released prior to the identification being effected, the program produces valuable lead information that might result in the apprehension of dangerous fugitives.
- The Division's latent fingerprint specialists processed 18,244 cases which resulted in the identification of 3,060 suspects and 216 deceased individuals. There were 297 court appearances by these experts which resulted in 1,980 years in prison terms, in addition to 23 life terms, six death sentences, and fines totaling \$310,855.
- The FBI Disaster Squad, a specially trained group of latent fingerprint specialists, assisted in the identification of the victims of three aircraft disasters in Reno, Nevada; Dallas, Texas; and Milwaukee, Wisconsin; and the victims of the fire at the residence of the MOVE organization in Philadelphia, Pennsylvania. There were 243 victims examined in these disasters and 88 were identified by fingerprints and/or footprints.
- The annual Boy Scout Jamboree was held at Fort A. P. Hill, Virginia, from July 22-30, 1985. The Identification Division sent four of its fingerprint technicians there to assist and teach the scouts the science of fingerprinting. During the week, FBI technicians assisted 1,020 scouts in qualifying for their Boy Scout Fingerprinting Merit Badges. In addition, about 1,500

scouts were fingerprinted in connection with the Missing Children Act and were encouraged to take the cards home to their parents in case they were ever needed at a later date.

Administrative And Support Services

Administrative Services Division

The Administrative Services Division provides budget, personnel, and procurement support for all FBI administrative and investigative operations. Personnel services include recruiting and hiring, training, employee benefits, pay administration, disciplinary matters, transfer of personnel, and other staffing functions. In addition, this Division oversees the FBI's Equal Employment Opportunity Office and manages the security and space allocation of FBI facilities.

At the close of Fiscal Year 1985, there were 20,975 persons on the FBI payroll, including 8,938 Special Agents and 12,037 clerical, stenographic, and technical personnel.

During Fiscal Year 1985, the FBI implemented new General Ledger, Accounts Payable, and Budgetary Control Financial Management Subsystems. The installation of these subsystems has allowed improvements in the quality and effectiveness of controls, reporting, and operations. Further, the selection of commercial software alternatives has provided the flexibility necessary to accommodate reactive internal decision support requirements together with external reporting and disclosure requirements.

In Fiscal Year 1985, representatives of the Property Procurement and Management Section played a significant role in assisting the Department of Justice in the development of guidelines for implementation of the forfeiture provisions of the Comprehensive Crime Control Act of 1984 (signed into law on October 12, 1984). The guidelines subsequently adopted by the Attorney General established the mechanisms to be used which allow for the first time the sharing of federally forfeited property with participating police agencies and created a Department of Justice Asset Forfeiture Fund, the proceeds of which can be used to benefit the FBI and other investigative entities.

In November 1984, the FBI contracted for employee relocation services with Homequity, Inc., Coldwell Banker Relocation Management Services, Inc., and ChemExec ReloSystems Inc., Chemical Bank, New York, New York. These contracts provide for the purchase of an employee's residence at the old duty station, rental management, home finding, mortgage finding, and spouse career counseling services. As of September 25, 1985, 902 transferred employees used these contracts.

The Airline Reservations Office at the FBI Headquarters has been in operation since January 1981. Annual ticket output has increased since that time from 5,000 to 15,000

tickets. The cost-effectiveness factor of this program lies in the automation aspect which has eliminated several manual procedures. This program also allows the FBI access to a direct control of travel funds. In concert with the "Reform 88" program, the estimated annual savings is \$400,000. This figure includes the aggregate savings generated by the teleticketing network in seven selected field office locations. In addition, the FBI airline program has several security measures applied to protect the integrity of FBI operations.

In Fiscal Year 1985, the FBI established the Personnel Resources Unit to further refine the FBI's human resources forecasting capability. This function, now combined with managing a nationwide, centralized recruiting system, has improved the FBI's ability to attract top calibre candidates in all categories, with particular emphasis on lawyers, accountants, linguists, engineers, computer scientists, minorities, and females.

Records Management Division

The basic mission of the Records Management Division is the managing of the FBI's information, consisting mainly of hard copy records. The Division has positioned itself, however, to take full advantage of automation to improve the functions of collecting, processing, retaining, and disseminating the FBI's investigative and administrative information.

During Fiscal Year 1985, the Records Management Division routed and dispatched in excess of 8 million pieces of correspondence; processed for retention more than 1,240,000 records; and opened more than 81,700 new case files in various categories. The current record holdings exceed 6.5 million files.

Evidence of the Division's intent to utilize automation to streamline the records processing functions was the establishment of the Office of Automation and Information Management under the direction of a Deputy Assistant Director. In addition to assuming control of all automation initiatives within the Division at FBI Headquarters, the Office of Automation and Information Management will direct the Field Office Information Management System effort relating to field office automated recordkeeping requirements.

Examples of automation accomplishments by the Division include the conversion of over 6 million hard copy index records to an automated format, bringing the total number of index records converted to 13,511,894, or nearly 70 percent completion of the targeted goal; development of tape to tape searching procedures for handling name checks; and the initiation of a quality assurance program to enhance the integrity of Headquarters and field office indices.

During the past fiscal year, the Records Management Division processed in excess of 2 million name check requests submitted by approximately 80 other federal agen-

cies, certain congressional committees, and local and state criminal justice agencies.

In Fiscal Year 1985, more than 1,200,000 pages of FBI documents were reviewed for national security classification determinations in connection with Freedom of Information-Privacy Acts (FOIPA) requests.

The Records Management Division received 10,601 new FOIPA requests and reopened 743 FOIPA matters during Fiscal Year 1985. This is in addition to the 4,636 FOIPA requests that were pending at the close of Fiscal Year 1984. A total of 11,129 requests were completed during the past fiscal year. Approximately 64 percent of all FOIPA requests were generated by the general public, with the remainder received from incarcerated persons, scholars/historians, representatives of the news media, and FBI employees. There were 848 administrative appeals filed in 1985 and 215 FOIPA requests in litigation at the end of the fiscal year.

Technical Services Division

The Technical Services Division is responsible for the management of the FBI's Automatic Data Processing and Telecommunications Services, the FM Radio Communications System, the technical equipment necessary to support the FBI's investigative mission, and the National Crime Information Center.

Since 1981, the FBI's Long Range Automation Strategy has called for the application of advanced technology, such as artificial intelligence, to increase employee effectiveness and to improve operational efficiency and data integrity. The FBI has established base-line artificial intelligence capabilities through a contract with the Institute of Defense Analysis, a Federal Contract Research Center. Through extensive training, an in-house capability has also been created to parallel the support provided by the Institute of Defense Analysis. Multiple prototypes in the labor-racketeering and counterterrorism areas have been produced. Closed cases were used to support development of the labor-racketeering initiative and the current prototype will now be applied to an active major case. Ongoing investigations of known terrorism networks were used to develop the counterterrorism prototype. These efforts have demonstrated the benefits in codifying expert knowledge and using this knowledge to infer new investigative methods and alternatives with direct reference to and pattern matching of applicable criminal statutes such as the RICO statute.

The Information Systems Engineering Center, the FBI's primary research and development center, was established with rapid prototyping capabilities. This capability was used by the Technical Services Division to develop the Department of Justice Prototype Case Management System. The prototype, which uses natural language processing, will serve as a basis for building a standardized case management system for the Attorney General.

The Technology Action Committee of the FBI/DEA Link-up was established to address common issues and the following three cost containment initiatives are underway:

- The Department of Justice directed the FBI to support DEA's secure data processing activities within the FBI Headquarters Computer Center. This initiative will result in savings as DEA will avoid the cost of constructing an independent secure computer center.
- The Attorney General has approved a proposed initiative to implement a fully integrated VHF digital voice privacy radio system to support the FBI, DEA, and U.S. Marshals Service, with the FBI acting as the lead agency. A study has been planned to document the relative cost and benefits of integrating the three systems under the current FBI architecture as compared to autonomous architectures operated by agencies. The study will develop user requirements and a follow-on effort will establish the system architecture.
- The decision to collocate and fully integrate FBI and DEA research and development and engineering activities has been made. These activities will share the FBI's Engineering Research Facility which is to be constructed on FBI Academy grounds. A preliminary architectural and engineering design for the Engineering Research Facility has been completed.

The Terrorist Information System was developed and implemented. The Organized Crime Information System was deployed to four additional locations for a total of 44 field locations serving 89 percent of the field Agents assigned to these priority criminal investigations. The Investigative Support Information System was expanded to two field locations and 22 new data bases were implemented to support ongoing major case investigations. At the end of Fiscal Year 1985, the Investigative Support Information System was supporting a total of 78 data bases on-line in 37 field offices and FBI Headquarters. Field office special automation support, which is the *ad hoc* data processing of investigative information, was provided to 32 field locations regarding 75 investigative matters.

The accelerated Field Office Information Management System is on-line in the following 10 field offices: Boston, Albany, New Haven, Newark, Philadelphia, Baltimore, Washington Field, Detroit, Cleveland, and Los Angeles. A contract was awarded for the construction of the Western Regional Computer Support Center. The Field Office Information Management System prototype personnel application was implemented in the Boston DEA office. The Institute of Defense Analysis has been tasked to conduct a cost-benefit analysis of the Field Office Information Management System and to study the impact of automation on the FBI.

Multithreading inquiry capability was implemented for the Automated Records Management System to reduce name searching response time from 22 seconds to three seconds. This enhancement permitted Records Management Division productivity to increase by 38 percent.

The FBI acquired five new central processing units. Two mainframe computers were acquired to support the Intelligence Information System, the Automated Identification System, the Resource Management System, and the Department of Justice Prototype Case Management System. Three minicomputers were acquired to support the Field Office Information Management System, the Information Systems Engineering Center, and the National Center for the Analysis of Violent Crime.

A contract was awarded to Atre International Consultants, Inc., for development of a prototyping methodology for designing a distributed data base. The FBI-wide distributed data architecture will be prototyped using two regions and FBI Headquarters.

The Violent Criminal Apprehension Program component of the National Center for the Analysis of Violent Crime has been implemented. The Program will analyze crime data received to identify by modus operandi, suspect description, and physical evidence any similarities with other reported crimes.

A software improvement project was initiated to modernize the 18-year-old National Crime Information Center system. The Originating Agency Identifiers file is now on-line under the FBI's Data Base Management System. Some of the benefits of this are increased file data integrity, reduced programmer effort to maintain the file, and direct National Crime Information Center quality control update capability. It will also provide users the capability to update identifying information for the Originating Agency Identifiers record for their agency.

A comprehensive study of the National Crime Information Center system will determine the information and service needs of the criminal justice community to be supported by the National Crime Information Center for the remainder of this century. The information gained in this study will provide for the design of a new generation National Crime Information Center system with advanced and expanded functionality for National Crime Information Center users, while addressing concerns for individual rights and privacy.

In Fiscal Year 1985, a cost-benefits analysis was conducted by the Institute of Defense Analysis to assist the FBI in an analysis of installation costs for digital voice privacy radio systems. Equipment production for digital voice privacy radio equipment was initiated for 17 field offices and planning is underway for the installation of these systems. A contract for digital voice privacy radio equipment for 13 additional field offices was also awarded. Tactical voice privacy radio support was provided in a number of major investigations, including the Federal Rocket case which resulted in the

arrest of members of a Puerto Rican terrorist group in San Juan.

The Technical Services Division continues to provide technical operational support to priority investigations. Research and development initiatives were undertaken to support tracking and surveillance, audio processing, video, optics, electro-optic devices, microphones, miniature transmitters, and other electronic investigative aids.

One of the more important accomplishments was the development of closer ties between the Technical Services Division and components of the Department of Defense and the Intelligence Community. The Assistant Secretary of Defense for Command, Control, Communications and Intelligence has named the Technical Service Division's Assistant Director chairman of the National Telecommunications and Information Systems Security Committee's Subcommittee on Telecommunications Security. Through participation in the National Telecommunications and Information Systems Security Committee, which was established by National Security Decision Directive 145, the FBI is assuming a lead role in governmentwide automatic data processing and telecommunications security policy. In addition, the Technical Services Division has established a linkage with the Defense Advanced Research Products Agency and other Department of Defense entities with state-of-the-art technical expertise to support new initiatives such as artificial intelligence, rapid prototyping, and teleconferencing. This cooperative effort is improving the effectiveness of the Technical Services Division's technical support activities as well as providing the Defense Advanced Research Products Agency a forum for practical application of some of their research and development efforts.

Inspection Division

The Inspection Division is composed of three offices: the Office of Professional Responsibility, the Office of Inspections, and the Office of Program Evaluations and Audits.

The primary functions of the Office of Professional Responsibility are to supervise and/or investigate all allegations of criminality and serious misconduct on the part of FBI employees, and monitor disciplinary action taken concerning all employees of the FBI. In addition, the Office of Professional Responsibility maintains close liaison with the Office of Professional Responsibility in the Department of Justice and coordinates FBI submissions to the Intelligence Oversight Board at the White House. During Fiscal Year 1985, the Office of Professional Responsibility coordinated and/or personally investigated 479 separate inquiries of FBI employees.

The Office of Inspections is responsible for conducting in-depth examinations of the FBI's investigative and administrative operations to determine whether: 1) there is compliance with applicable laws, regulations, and policies; 2) resources are managed and used in an effective, efficient,

and economical manner; and 3) desired results and objectives are being achieved. These examinations are conducted for all FBI field offices, legal attaches, and Headquarters divisions approximately once every two years. The work product of the Office of Inspections provides valuable input for management's short-range planning and decisionmaking and serves as a useful tool in the evaluation of FBI managers. During Fiscal Year 1985, the Office of Inspections conducted 28 inspections and issued 1,777 instructions or recommendations, of which 1,009 related to effectiveness or efficiency of operations. Further, the Office of Inspections undertook examination of 25 equal employment opportunity complaints and conducted nine administrative inquiries.

The Office of Program Evaluations and Audits is comprised of a Program Evaluations Unit and an Audit Unit. The Program Evaluations Unit conducts periodic evaluations of FBI investigative programs and administrative activities as well as studies and policy analysis. The purpose of these functions is to determine whether existing policies, procedures, and operations meet present and anticipated requirements. In addition, FBI operations are reviewed for economy, efficiency, and effectiveness. During Fiscal Year 1985, four evaluations of FBI programs and six studies were initiated and six evaluations and seven studies were completed and reported. These evaluations and studies resulted in numerous recommendations for improving operational and management effectiveness. All FBI major programs are scheduled for evaluations on a five-year cycle.

The Audit Unit is responsible for financial and Electronic Data Processing audits within the FBI and has the responsibility for liaison with the General Accounting Office, Department of Justice, and other government auditors. During Fiscal Year 1985, the Audit Unit conducted financial and compliance audits at 23 field offices and eight audits of FBI Headquarters funds. Also, one Electronic Data Processing audit was completed and another major system audit was initiated. During Fiscal Year 1985, the Audit Unit assisted the General Accounting Office and the Department of Justice in conducting 34 reviews/studies of FBI operations. The assistance rendered to the General Accounting Office and the Department of Justice ranged from the coordination of and participation in interviews of FBI management officials to extensive compilations of data at FBI Headquarters and in various field offices.

Legal Counsel Division

Legal Counsel, along with his staff of Special Agent Attorneys, provides legal advice to the Director and other FBI officials, serving as a consultant on legal policy and related administrative and investigative issues. In addition to evaluative and analytical services, Legal Counsel and his staff assist in the defense of civil suits and administrative

claims filed against named FBI personnel defendants (past and present) as well as the defense of all FBI records at issue in litigation brought about pursuant to the FOIPA. The discovery demands made in litigation are handled by the Civil Discovery Review Units, Legal Counsel Division. The Legal Counsel staff also represents the FBI at administrative proceedings before the Merit Systems Protection Board and the Equal Employment Opportunity Commission. The goals of the litigation program are to ensure that the FBI's posture in all litigation is consistent and proper and that the interests of the FBI and its employees are fully represented.

Legal research on a wide variety of issues is conducted to prevent problems and ensure legality in the conduct of investigative activities, including highly sensitive investigative techniques such as undercover operations. Guidance is also offered to field investigative and supervisory personnel to ensure compliance with the various guidelines issued by the Attorney General.

In August 1983, the FBI commenced handling administrative forfeitures pursuant to the Controlled Substances Act. There is presently pending a request to the Attorney General to permit the FBI to administratively forfeit property pursuant to eight non-drug related statutes that have forfeiture provisions. This is predicted to substantially increase the number of forfeiture matters handled by the FBI.

The Legal Counsel Division has the responsibility to ensure legal sufficiency throughout each step of the administrative forfeiture process. This includes the declaration of forfeiture and rulings on petitions relating to the return of property or cash penalties.

A comprehensive legal training program for FBI personnel and others in the criminal justice system is planned, administered, and delivered by Legal Counsel staff attorneys. Instruction given in constitutional, criminal, and procedural law conforms to the training mission of the FBI, supports its effectiveness in FBI investigations, and will meet the needs of future investigators in the 1980's.

Office of Congressional and Public Affairs

The Office of Congressional and Public Affairs is an adjunct of the Director's Office which coordinates news media

requests and related public information matters; provides the public with a factual accounting of FBI programs, operations, and services on a continuing and timely basis; and furthers the Bureau's objective of enlisting public support in the fight against crime.

This Office also maintains liaison with Capitol Hill concerning legislative and oversight matters pertaining to the FBI and analyzes proposed or enacted legislation affecting FBI operations.

Uniform Crime Reporting Program

The Uniform Crime Reporting Program provides periodic assessments of crime in the nation as measured by offenses coming to the attention of the law enforcement community. Through the combined efforts of nearly 16,000 state and local law enforcement agencies, data concerning crime, arrests, property stolen and recovered, law enforcement employee counts, and other criminal justice information are collected, processed, and disseminated. Such data assist law enforcement administrators to effectively carry out their public responsibilities. Statistical information on crime published under the Program is widely used by public administrators, legislators, criminal justice researchers and planners, law enforcement officers, and the general public.

The International Association of Chiefs of Police and the National Sheriffs' Association provide guidance in policy matters to the national Uniform Crime Reporting Program. Participants in the Program receive assistance in utilizing the Uniform Crime Reporting procedures through training courses conducted by the Uniform Crime Reporting staff.

Related programs include data presentations detailing information on law enforcement officers feloniously killed, bombing matters, and assaults on federal officers.

Tours

A visit to FBI Headquarters continued to rank high on Washington, D.C. visitors' priority lists. During Fiscal Year 1985, more than 528,000 persons toured the J. Edgar Hoover F.B.I. Building, viewing displays and learning about the Bureau's investigative jurisdiction, services, and history. Tours are offered daily between 8:45 a.m. and 4:15 p.m., except weekends and holidays.

Drug Enforcement Administration

John C. Lawn
Administrator

The Drug Enforcement Administration's (DEA) primary responsibility is to enforce the controlled substances laws and regulations of the United States of America. DEA also recommends and supports nonenforcement programs aimed at reducing the demand for illicit drugs in the United States and reducing the availability of controlled substances in the illicit domestic and international markets.

In support of the Administration's and the Attorney General's commitment to the war on drugs, DEA's priority objectives for Fiscal Year 1985 were:

- To bring to bear all the federal resources on the arrest, prosecution, and immobilization of major drug trafficking organizations via continued coordination with other federal agencies and the use of financial and legal tools, emerging technology, and sophisticated investigative techniques;
- To reduce the supply of illicit drugs from source countries, thereby reducing the availability of illicit drugs in the United States and abroad via source country initiatives, assistance to foreign governments, training for foreign law enforcement authorities, and public support for successful foreign government endeavors;
- To significantly reduce the diversion of controlled substances from the legitimate channels in which they are manufactured, distributed, and dispensed through a vigorous program of investigations and state, local, and international cooperation;
- To enlist the active participation of state and local governments and law enforcement agencies in the national drug eradication program, clandestine laboratory task forces, State and Local Task Forces, and other multistate coordinative efforts;
- To participate actively and aggressively in the federal, state, and local effort to mobilize public support for the drug enforcement and abuse prevention program by implementing strategies and educational programs that stimulate cooperation among state and local criminal justice agencies, schools, businesses, civic and parent groups; and
- To improve the effectiveness and efficiency of DEA operations through the implementation of specific programs designed to enhance employee performance.

Significant Events

Over the past year, various events have affected the way in which DEA approaches, performs, and accomplishes its mission. DEA facilities and personnel have been threatened; new legislation and more cooperation worldwide have improved our ability to fight the war on drugs; and significant seizures, arrests, and convictions have taken place. These events and some of DEA's more significant accomplishments are described below.

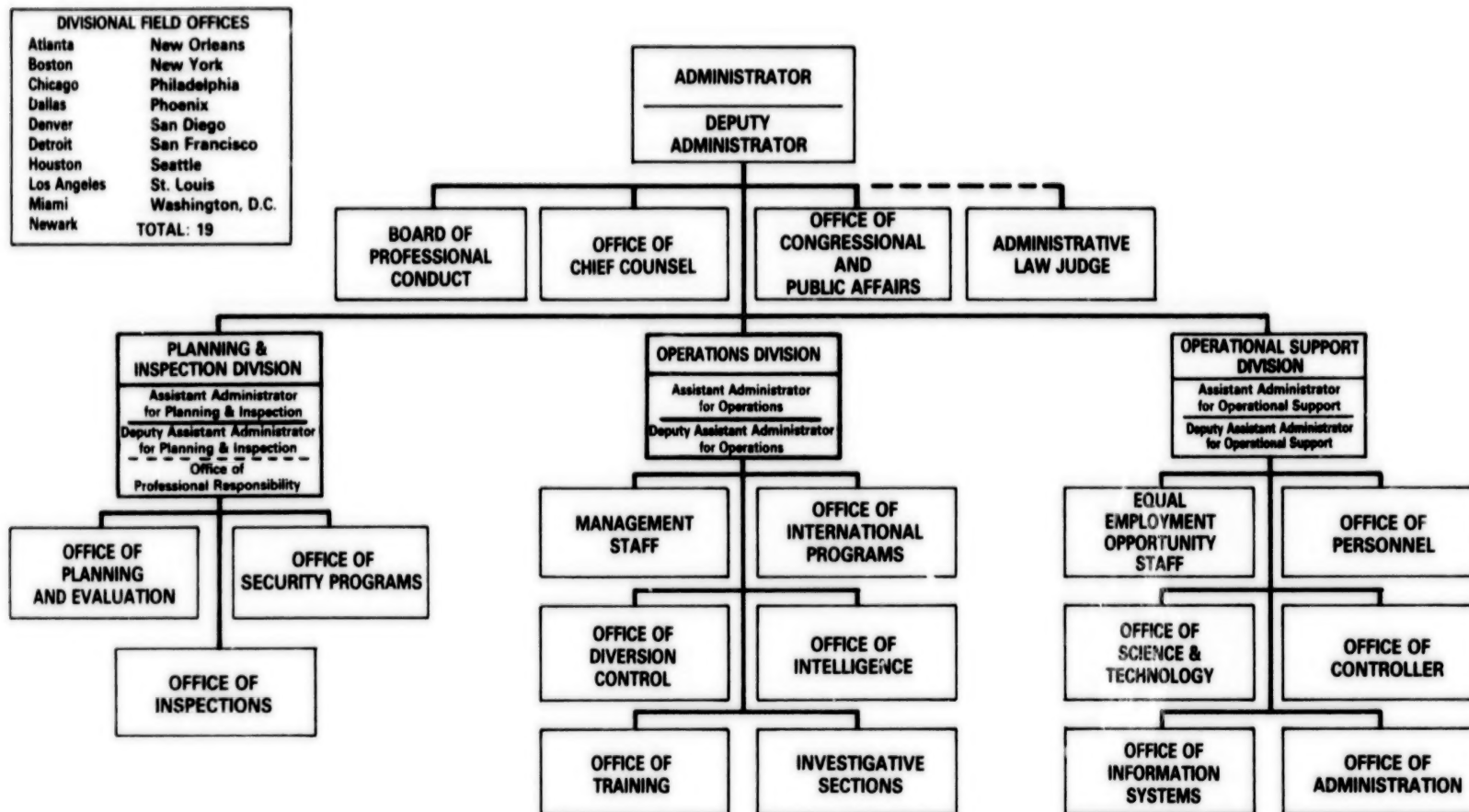
On February 7, 1985, DEA Special Agent Enrique Camarena Salazar was abducted in Guadalajara, Mexico. A Mexican pilot and colleague, Alfredo Zavala Avelar, was similarly abducted a few hours later. Their bodies were found, on March 5, 1985, near a ranch in Vista Hermosa, Mexico. The abduction and subsequent murder of Special Agent Camarena launched a DEA worldwide alert to possible attacks against DEA personnel and installations, as well as other U.S. agencies participating in drug law enforcement. An international investigation, directed personally by the Administrator of DEA, led to the apprehension of several of the perpetrators of this brutal act. Mexico is presently preparing for their prosecution.

These acts of violence focused international attention on the brutality of drug traffickers and their crimes. The American public and the Congress have been sensitized to everyday risks taken by DEA personnel, and the tragic costs DEA sometimes pays for succeeding in its efforts. DEA's commitment to drug law enforcement has been strengthened by this tragedy and all nations are now on notice that it intends to protect its personnel regardless of their assignments, whether domestic or foreign, and that DEA will react appropriately when threatened.

In December 1984, for the first time, seven Colombian nationals were extradited for drug trafficking to the United States by the Colombian government. This is significant because of the magnitude and level of drug trafficking by Colombian nationals.

One of DEA's most significant cocaine cases in Fiscal Year 1985 resulted in the indictment of the Prime Minister, Minister of Finance, and representative from the Turks and Caicos Islands. This was the first time that high-level foreign officials were indicted and subsequently convicted on drug charges in the United States. These three government officials offered to provide protection and refueling facilities to

DRUG ENFORCEMENT ADMINISTRATION



DEA Agents who posed as cocaine smugglers. The Agents were to transport 400 kilograms of cocaine from Colombia to the United States with a refueling stop at the Turks and Caicos Islands. This investigation was the result of extensive cooperative efforts by DEA's Bogota, Colombia, and Las Vegas, Nevada, offices; the British government; and the Turks and Caicos Island Royal Police.

During the past several years, DEA combined its expertise and resources with other U.S. and international agencies in a cooperative effort to arrest top level organized crime figures worldwide. Over 40 major U.S. traditional organized crime drug traffickers were arrested during Fiscal Year 1984 and Fiscal Year 1985 because of DEA Special Enforcement Operations, Organized Crime Drug Enforcement Task Force investigations and other investigations. For example, a 1973 DEA indictment for drug trafficking resulted in the extradition of a major organized crime figure from Italy. In Fiscal Year 1985, this organized crime figure decided to cooperate with the United States. The information he provided supported additional indictments in existing DEA cases. One such investigation in 1985 was the Pizza Case which culminated in the arrest of major heroin violators by Special Agents from DEA's New York and Philadelphia Divisions. His testimony before Italian officials in Italy also resulted in the arrests of over 400 Mafia figures worldwide during the past two years.

DEA initiated Operation Whitecoat, which was a special operation aimed at the diversion of hydromorphone (dilaudid), a Schedule II narcotic. The abuse of dilaudid was widespread in Nashville, Tennessee, during early 1985. DEA estimated 250,000 dosage units of dilaudid with a street value of \$15 million was diverted over an 18-month period. As a result of DEA's efforts, three physicians, one pharmacist, and 10 other traffickers were indicted in federal court on drug trafficking and conspiracy counts. Extensive assets were also seized.

A major package of drug law enforcement legislation contained in the Comprehensive Crime Control Act of 1984 provided the Attorney General with the authority to temporarily place a substance into Schedule I of the Controlled Substances Act in order to avoid an imminent hazard to the public safety. Coincidentally, the abuse of controlled substance analogs became a serious threat to the public health and safety. Four controlled substance analogs were temporarily placed into Schedule I using the newly enacted emergency scheduling provision. The substances were 3-methylfentanyl, a fentanyl analog associated with many overdose deaths; MDMA ("ecstasy"), a neurotoxic analog of MDA and methamphetamine; and MPPP and PEPAP, meperidine analogs associated with the development of a Parkinson-like syndrome.

A Record of Decision with respect to the Environmental Impact Statement on the Eradication of Cannabis on Federal

Lands in the Continental United States was signed on September 6, 1985 by the DEA Administrator. The decision called for the utilization of the full range of manual, mechanical, and both spot and broadcast herbicidal methods to eradicate illegally cultivated cannabis on federal lands. The adoption of this alternative provides DEA and federal land managers the operational flexibility to choose the most appropriate method of eradication and disposal of cannabis based on site-specific environmental analyses. The U.S. decision to eradicate cannabis through spraying demonstrates to foreign countries DEA's commitment to this program and specifically this method of eradication.

The Sports Drug Awareness Program, coordinated by DEA in conjunction with the National Football League (NFL), the NFL Players Association, the National High School Athletic Coaches Association, and the International Association of Chiefs of Police, continues to heighten the awareness of the public and private sectors of the magnitude of the drug problem and how to combat it. DEA has been conducting one and three-day seminars and one hour awareness sessions for high school coaches regarding the scope of the drug problem and assisted their schools in formulating drug abuse prevention programs. Through these and other efforts, it is estimated that 8,000 high school coaches have been reached who, in turn, have the potential of reaching more than 2.6 million school aged youths. A new aspect of this program, designed to increase its visibility, features television and radio public service announcements using prominent national and local sports celebrities. The first public service announcement spotlights the NFL Commissioner and NFL Players Association Executive Director. These public service announcements will be distributed to 860 television and 4,500 radio stations with a potential audience of 85.5 million households.

Agency Functions

To accomplish its many responsibilities, the DEA work force includes approximately 2,400 Special Agents and 2,100 professional, technical, and support personnel. DEA maintains 19 domestic field divisions with approximately 100 subordinate field offices, the El Paso Intelligence Center, seven regional forensic laboratories, a Special Testing and Research Laboratory, and an Air Wing. Overseas, DEA maintains over 60 offices in over 40 foreign countries. DEA Headquarters is comprised of three main divisions, three staff offices, and an Administrative Law Judge.

Operations Division

The Operations Division is responsible for DEA's investigative activities. Managed by an Assistant Administrator, the Division is comprised of the following

organizational elements: 1) Investigative Sections which include four drug investigative sections and an Investigative Support Section, 2) the Office of International Programs, 3) the Office of Intelligence, 4) the Office of Diversion Control, 5) the Office of Training, and 6) the Management Staff.

Each of the four drug sections (Cocaine, Heroin, Cannabis, and Dangerous Drugs), manages the DEA worldwide program with respect to investigative activities for its specific drug type in order to ensure coordination among all Headquarters and field operational elements. These sections monitor Special Enforcement Operations and Organized Crime Drug Enforcement Task Force investigations.

The Investigative Support Section: 1) coordinates all investigative support programs/projects, 2) manages the technical operations program which includes all investigative, radio communications and polygraph equipment used by DEA worldwide, and 3) operates the DEA aviation program.

The responsibilities of the Office of International Programs are to assist foreign countries in traditional enforcement activities, to develop drug law enforcement programs, and to implement other programs aimed at reducing the supply of illicit drugs destined for the United States. Through its foreign activities DEA attempts to develop stronger diplomatic efforts, reduce illicit crops and chemicals used in drug production, immobilize drug production facilities, identify drug transit areas, disrupt smuggling, and reduce the diversion of licit drugs. DEA Country Attaches assigned to overseas posts act as the principal advisors to the U.S. Ambassador on all international narcotics and dangerous drug matters. DEA also encourages host countries to enact legislation allowing seizure and forfeiture of assets obtained through drug profits and assists in identifying other legislative or administrative actions that could impact the drug trade.

The DEA Intelligence program emphasizes the exchange of information with enforcement counterparts and cooperating agencies worldwide to provide optimum support to domestic and international drug enforcement operations. The key initiatives of the Office of Intelligence are to: 1) provide tactical and operational intelligence products and services which identify the structure and members of international and domestic drug trafficking organizations and exploitable areas for enforcement operations; 2) prepare strategic intelligence assessments, estimates, and probes focusing on trafficking patterns, source country production, and domestic production and consumption trends; 3) develop financial intelligence that focuses on the financial aspects of drug investigations such as money laundering techniques, drug related asset discovery and forfeiture, and macroeconomic impact assessments of illegal drug trade; and 4) provide interagency intelligence support to other federal, state, and local law enforcement organizations,

assistance to a variety of state and foreign drug intelligence clearinghouses, and participate in the National Narcotic Border Interdiction System and chair the National Narcotics Intelligence Consumers Committee.

The Office of Diversion Control enforces provisions of the Controlled Substances Act which pertain to the manufacture and distribution of controlled substances for medical and research purposes. This Office is responsible for the detection and prevention of the diversion of controlled substances from legitimate channels. It conducts periodic investigations of drug manufacturers and wholesalers, conducts special investigations of targeted registrants who are high-level violators, identifies drug shipments in foreign countries that are destined for illegal smuggling operations, monitors all imports and exports of controlled substances, registers all handlers of controlled substances, and conducts pre-registration investigations prior to approval of applications for registration. It also prepares, for the Administrator's decision, recommendations establishing manufacturing quotas for all Schedule I and II substances and the placement of drugs of abuse in the appropriate Controlled Substances Act Schedule.

The Office of Training develops and provides entry-level, in-service, and advanced training for DEA employees, as well as specialized multilevel training in drug enforcement techniques for other federal, state, local, and foreign officials.

The Management Staff develops the policies and procedures governing the conduct of DEA investigative activities. The Staff also coordinates the development of foreign and domestic offices' work plans, recommends the annual reallocation and distribution of all core series positions, develops the Operations Division financial plan, and coordinates all of its budget matters.

Operational Support Division

The Operational Support Division, managed by one of the three Assistant Administrators, supports DEA's worldwide operations by providing administrative and technological services to all offices. Six organizational elements comprise the Operational Support Division: 1) the Office of Personnel, 2) the Office of Administration, 3) the Office of Science and Technology, 4) the Office of Information Systems, 5) the Office of the Controller, and 6) the Equal Employment Opportunity Staff.

The Office of Personnel formulates DEA personnel management policy and directs a comprehensive personnel management program which includes employee relations, benefits, health, safety, recruitment and placement, pay and position management, performance appraisal systems, and an automated personnel data system.

The Office of Administration attends to administrative matters such as contracting, procurement, facilities and equipment management, and transportation.

The Office of Science and Technology is responsible for overall engineering, scientific, and forensic science support for DEA. It also provides information on illicit drug availability and trends, and related scientific and laboratory assistance to other federal, state, local, and foreign law enforcement agencies.

The Office of Information Systems plans and manages DEA's equipment and systems for automated data processing, telecommunications, teleprocessing, microfiche, facsimile, word processing, secure voice, and office automation.

The Office of the Controller is responsible for the overall financial management of the agency, including accounting, budgeting, management analysis, internal control (A-123), and A-76 activities.

The Equal Employment Opportunity Staff develops equal employment opportunity policies, programs, and goals for DEA in conformance with government regulations. The Staff also formulates equal employment opportunity plans of action and processes any complaints of discrimination.

Planning and Inspection Division

Under the direction of an Assistant Administrator, the Planning and Inspection Division consists of four major offices: 1) the Office of Inspections, 2) the Office of Planning and Evaluation, 3) the Office of Security Programs, and 4) the Office of Professional Responsibility.

The Office of Inspections conducts regular and special inspections of DEA Headquarters and field elements to ensure effectiveness, efficiency, economy of operation, and compliance with statutes, regulations, policies, and procedures. It also carries out fiscal audits of all DEA entities having procurement, financial approval, and disbursement responsibilities. Participation in the Inspection Program is an important element in the career development of DEA Special Agents.

The Office of Planning and Evaluation is responsible for agencywide strategic planning, special studies and policy analyses, evaluation of agencywide programs, the development and maintenance of statistical information systems for all of DEA and the agency's physical fitness program.

The Office of Security Programs is responsible for the coordination of personnel security investigations, maintenance of physical security standards for DEA facilities, establishment of procedures for classification and storage of national security materials, evaluation of communications and data processing security, and the coordination of DEA countermeasure initiatives and emergency preparedness plans.

The Office of Professional Responsibility coordinates the establishment of employee standards of conduct and directs investigations of allegations of misconduct and criminal violations by DEA employees.

Staff Offices

The Office of Chief Counsel handles all legal issues concerning: 1) the criminal enforcement responsibilities of DEA, 2) asset seizure and forfeiture; 3) the diversion of controlled substances and the regulation of the legitimate controlled substance industry; and 4) civil litigation, personnel and equal employment opportunity matters, tort and employee claims. It also advises DEA with respect to the application of international conventions and protocols relating to narcotics and psychotropic substances, and drafts legislation relating to drug law enforcement. It assists state and local officials in establishing adequate and uniform legislation and regulations in this regard.

The Office of Congressional and Public Affairs serves as the principal advisor to the Administrator and other DEA officials on all matters relating to the Congress. It prepares testimony for fact-finding and legislative hearings and escorts congressional or staff delegations on narcotic fact-finding missions to source and transit countries throughout the world. It also monitors pending legislation that may affect DEA's mission, policies, and personnel practices.

The Office also performs public affairs functions such as: coordinating news media requests and related public information matters; providing a factual accounting of DEA programs, operations, and services; managing the public inquiry/publications program; and coordinating the Sports Drug Awareness Program.

The Board of Professional Conduct determines the propriety of disciplinary and adverse actions resulting from DEA integrity investigations.

The Administrative Law Judge presides over and arranges for all hearings which are required pursuant to the Administrative Procedures Act (5 U.S. Code 551, *et seq.*), and prepares recommended decisions for the DEA Administrator based upon the evidence presented at hearings. He conducts hearings regarding registrations under the Controlled Substances Act, the placement of controlled substances in appropriate schedules established by the Act, the setting of certain manufacturing and procurement quotas, and the issuance of import and export permits for certain controlled substances. The Administrative Law Judge is an autonomous entity within the DEA organizational structure.

Field Divisions

Field Divisions are responsible for: 1) conducting drug-related criminal investigations and scheduled investigations

of legitimate controlled substances handlers, 2) participating with other federal, state, and local law enforcement and regulatory offices in conducting drug-related criminal investigations and assisting them in cooperative drug abuse prevention efforts, 3) directing the activities of State and Local Task Forces within their jurisdictions, and 4) developing, utilizing, and distributing intelligence data relating to significant trafficking trends, major violators, and clandestine laboratories within their scope of geographic responsibility.

El Paso Intelligence Center

The El Paso Intelligence Center is a cooperative intelligence operation managed by DEA. The El Paso Intelligence Center is designed to target, track, and interdict international movement of drugs, aliens, and weapons. Nine agencies participate at the El Paso Intelligence Center: DEA, the Immigration and Naturalization Service, the U.S. Customs Service, the U.S. Coast Guard, the Federal Bureau of Investigation (FBI), the Federal Aviation Administration, the Internal Revenue Service, the Bureau of Alcohol, Tobacco, and Firearms, and the U.S. Marshals Service. In addition, all fifty States, the Virgin Islands, and Puerto Rico have information sharing agreements with the El Paso Intelligence Center.

The El Paso Intelligence Center functions as a tactical intelligence center which provides for the immediate exchange of interdictive and investigative intelligence among its members.

International Accomplishments

DEA implements its international programs strategy through technical advice, program guidance, investigative cooperation, intelligence exchange, and the training of foreign officials. In 1985, there were many successes throughout the world.

- Colombia instituted cocaine and marijuana eradication programs. Approximately 2,300 hectares of marijuana and 10.3 million coca bushes were destroyed.
- Colombia and Ecuador, for the first time, initiated a joint eradication operation on their common border which resulted in the destruction of 500 hectares of coca bushes.
- Peruvian enforcement authorities, operating with logistical support furnished by the Colombian National Police and intelligence provided by DEA, raided a group of large cocaine processing laboratories hidden in the Amazon jungle in the extreme northeast corner of Peru near the Colombian border. During these raids, police seized about two tons of cocaine and, in

so doing, delivered their severest blow to drug traffickers in Peru. These raids constituted the first time Peruvian and Colombian authorities had jointly engaged in a significant drug enforcement operation.

- Brazil initiated an ongoing eradication program to destroy the recently discovered coca cultivation in the Amazon region. In 1985, this program resulted in the destruction of approximately 4,600 metric tons of coca.

For the most part, heroin used in the United States is imported, therefore, cooperation with foreign governments is essential to reduce the supply of heroin in the illicit market. DEA and foreign governments accomplished the following in this regard:

- Special Operations instituted in Pakistan to target Southwest Asian heroin shipments and laboratories resulted in the elimination of four heroin laboratories in the Northwest Frontier Province of Pakistan. Additionally, a DEA Special Agent testified for the first time at a Pakistan criminal trial. His testimony was instrumental in the conviction of the Deputy Superintendent of Police in Lahore, Pakistan.
- Information provided from an intelligence probe of the level of Southeast Asia's opiate production and trafficking assisted the U.S. government to raise the level of awareness of the Burmese government regarding the production of opium in their country, consequently they increased their drug enforcement efforts.

Marijuana is the most widely used drug of abuse in the United States. Among DEA's efforts to curb the supply available in the international markets, were the following:

- An intelligence probe described the effects of Thai cannabis cultivation on the United States and provided the basis for the Thai government's initiating a cannabis eradication campaign, which is scheduled to begin in 1986.
- An intelligence probe to locate opium poppy and cannabis cultivation in Guatemala served as a basis for the Guatemala government's launching a manual eradication campaign against both crops.

Cooperative efforts between DEA and its foreign counterparts have affected the availability of precursor chemicals used in the manufacture of illicit drugs.

- Through DEA's contacts with worldwide ether manufacturers, DEA was responsible for the seizure of over 1,700 fifty-five gallon drums of ether through July 1985, which were intended for cocaine production. (The ether could have made nearly 21,000 kilograms of cocaine worth approximately \$700 million wholesale in the United States.)

- New initiatives between DEA and Surinam resulted in the discovery of a major route used for the diversion of large quantities of acetone and ether. In addition, Surinamese police have begun new drug enforcement efforts.
- Malaysia initiated a precursor chemical program to monitor the shipment of acetic anhydride.
- Brazil initiated an investigation related to the diversion of acetone/ether to the illicit market by a Colombian/Brazilian organization. During this investigation, cooperation and the exchange of evidence and information was initiated between Panama, Colombia, and Brazil. This investigation successfully terminated with the arrest of over 100 defendants and the seizure of several million dollars in assets. This investigation was the first time in which the Brazilian conspiracy statute was utilized and the first in which defendants were convicted solely for the possession of chemicals.

Progress was also made in the initiation of laws in foreign countries to help combat the drug abuse problem worldwide.

- DEA intelligence regarding increased opium and cannabis production in Thailand was a key factor in prompting the Thai government to draft legislation concerning conspiracy and asset seizures in narcotics trafficking cases. The bill is awaiting final approval.
- England enacted laws allowing the seizure of drug-related financial assets.
- Malaysia has asset removal legislation pending.
- Argentina has drafted legislation which will allow plea bargaining by defendants. This legislation will allow judges the option of reducing jail sentences by up to two-thirds in exchange for cooperation in prosecuting others who are charged with drug related offenses.

The exchange of information between DEA and foreign counterparts continues to be an extremely important part of the foreign program. This exchange assists international officials in developing policy and enforcement programs.

- A significant exchange of information was accomplished through a first official visit of DEA officials to the People's Republic of China. The major accomplishments of this visit were the establishment of more direct relations between DEA and relevant Chinese agencies; the proposal of a bilateral executive seminar on drug trafficking; and the proposal for an Asian Pacific Conference for Source Nations on the Diversion of Drugs, Chemicals, and Precursors.
- DEA has taken an active role in developing a new international convention for the suppression of trafficking of drugs of abuse. This new proposal is in the draft

stages and addresses problems of international trafficking that may not be covered by other treaties.

- A second meeting of the Italian-American Working Group on Narcotics and Organized Crime was held in January 1985, in Rome, Italy. This meeting resulted in greater emphasis being directed against organized crime elements. A third meeting is planned for November 1985, in Washington, D.C.
- A regional radio communications network is being set up among the drug enforcement authorities of Bolivia, Colombia, Ecuador, Peru, and Venezuela. This network is designed to give these countries the opportunity to coordinate drug enforcement strategies and work closely together in confronting the drug trafficking threat common to all of them.
- Brazil, Venezuela, and Colombia signed cooperation agreements which will allow these countries to initiate joint investigations on their common borders, call for periodic meetings between drug enforcement police, exchange intelligence, and to solve common problems arising between them.

During Fiscal Year 1985, collection probes known as Special Field Intelligence Programs met a wide variety of intelligence requirements and filled specific information gaps in the areas of drug cultivation, production, smuggling, distribution, and the movement of money. Many of the Special Field Intelligence Programs focused on source and transit countries and interdiction efforts. Examples include:

- An intelligence probe of money laundering activities through a prominent Latin American financial center identified couriers, as well as the origin of \$45 million in cash transactions involving 337 incidents within a 12-month period. The resulting analysis provided insights into one money laundering operation, which have been useful to strategic and operational intelligence.
- An intelligence probe in the Mediterranean developed information identifying major drug trafficking networks, methods of smuggling, and trafficking routes. Several large heroin and hashish seizures and numerous arrests resulted from this probe. In addition, many current investigations throughout Southwest Asia and the Mediterranean area continue to benefit from the intelligence developed from this probe. It also assisted in defining a need for a DEA Office in Adana, Turkey, which has surfaced as a significant transshipment point for Southwest Asian opiates destined for the European and U.S. markets.

The following activities furthered the development of international programs and created more visibility for drug law enforcement worldwide:

- As a result of an intelligence project relating to the emerging role of Africa as an illicit drug production and transshipment area, DEA assigned a Special Agent to Lagos, Nigeria, on a temporary basis to assist the Nigerian police in the development of their drug law enforcement capabilities and to assess whether DEA should establish an office in that country. Based on the Agent's study, DEA decided to establish an office in Lagos during 1986.
- As a result of a comprehensive DEA intelligence study on the emerging threat of India as both a major transit and production area for both heroin and hashish, justification and documentation was provided to establish a DEA office in Bombay.
- DEA's Pakistan office, in conjunction with the Department of State, implemented a program to assign four DEA Special Agents to the Pakistan government as law enforcement advisors.
- DEA also approved the establishment of new offices in Cochabamba, Bolivia, and Sao Paulo, Brazil.

Concomitant to the success of worldwide drug law enforcement efforts, DEA's International Training Program accomplished the following:

- Conducted a total of 115 training schools in host countries reaching over 1,400 law enforcement officers during Fiscal Year 1985. Significantly, there was an increase of over 165 percent from Fiscal year 1984 in the number of countries participating. Concurrently, over 500 foreign officials from 80 nations were trained in the United States. The training effort was directed principally at those nations that produce and manufacture illicit drugs to assist them in detecting and suppressing the narcotics traffic within their respective jurisdictions. The courses were conducted in intelligence collection and analytical methods, asset removal, and management and supervision of drug units.
- DEA held two International Drug Enforcement Conferences, one in Brasilia, Brazil, in October 1984, and the other in Santiago, Chile, in June 1985. These conferences addressed Central and South American drug law enforcement issues and were attended by representatives from 11 Central and South American countries, the United States and Canada. In addition, representatives from five European countries attended as observers.
- Two seminars relating to the diversion of drugs and chemicals were conducted with foreign officials. One held on Quito, Ecuador, successfully brought together, for the first time, 40 participants from various agencies within Ecuador. Discussions centered around drug trafficking problems of national concern

and techniques for detection. Another seminar held in San Juan, Puerto Rico, was specifically aimed at training Dominican Republic officials in regulatory control procedures.

- DEA was also instrumental in initiating the first Diversion Investigations Training Seminar given by the International Criminal Police Organization (INTERPOL) in France. Instruction was provided by DEA and others to representatives from 15 countries. Due to the success of this effort, there will be other similar seminars in the Far East.

Domestic Cooperative Accomplishments

The DEA Domestic Cannabis Eradication Program was established in 1982 to ensure federal, state, and local agencies worked together in the eradication of domestically cultivated cannabis in the United States. DEA's role in this cooperative venture is to encourage state and local eradication efforts and to contribute funding, training, equipment, investigative, and aircraft resources. The Program has expanded from only seven states in 1981 to include all 50 states in 1985.

Eradication efforts in Fiscal Year 1985 resulted in the destruction of over 34 million plants found in over 23,000 plots weighing approximately 17,000 tons; the arrests of nearly 2,700 individuals; and the seizure of nearly 1,000 weapons.

During the week of August 5 through 9, 1985, the largest marijuana raid in U.S. history was conducted simultaneously in all 50 states. Operation Delta-9 involved more than 2,200 federal, state, and local law enforcement officers operating under DEA control. This five-day operation resulted in 225 arrests, the seizure of 78 weapons, the immobilization of eight indoor cultivation operations, and the eradication of over 400,000 plants.

DEA conducted 27 eradication schools and seminars in 1985, which were attended by nearly 1,000 law enforcement officers from federal, state, and local agencies.

DEA and FBI teamwork has produced significant results. Investigative efforts against motorcycle gangs involved in drug trafficking were continued in Fiscal Year 1985. A coast to coast investigation involving the FBI and state and local officers resulted in the arrest of 112 Hell's Angels' members and associates, including eight chapter presidents. DEA and the FBI also joined forces with the Pennsylvania, Delaware, and New Jersey State Police in an operation directed at drug trafficking by the Pagan outlaw motorcycle gang. The Pagan national president and other members of the gang were among the 35 arrested. A joint DEA/FBI effort also resulted in the arrest of 88 members and associates of the Bandido motorcycle gang.

As a result of information gathered in Florida and New Mexico, DEA identified a technique being utilized by traffickers to move drugs from Florida to other parts of the United States and money back to Florida via motor vehicle. A profile of this activity contributed to the establishment of Special Enforcement Operation PIPELINE in November 1983. This operation expanded to a nationwide enforcement effort involving DEA and state law enforcement agencies. By mid-1984, PIPELINE operations in New Mexico and New Jersey were responsible for 78 seizures which included: \$1 million, nearly 900 kilograms of cocaine, and over 150 arrests. By mid-1985, Operation PIPELINE expanded to a nationwide training program for state and local police agencies. DEA appointed coordinators in 15 Field Division offices to assist state and local police agencies in learning more about cocaine and drug monies moving through their states in motor vehicles.

The DEA State and Local Task Force Program unites DEA Special Agents and state and local police officers into cohesive drug enforcement units in selected geographic areas to provide increased emphasis on drug enforcement, interagency drug investigation cooperation, and continuing intelligence exchange. In 1985, 47 DEA State and Local Task Forces were operational.

The following examples of recent investigations by separate Task Forces illustrate the success of the Task Force Program.

- A Long Island Task Force investigation resulted in the seizure of three operational cocaine laboratories, 90 kilograms of cocaine, and a very large quantity of precursor chemicals. This organization produced approximately 180 kilograms of cocaine weekly. Some 35 subjects were indicted and one major fugitive was apprehended.
- The New York Joint Task Force, assisted by the FBI, conducted an investigation that resulted in the seizure of nearly 20 kilograms of heroin. Eight subjects were arrested, several of whom were foreign nationals.

Recognizing the increased involvement of organized crime in drug trafficking, the Organized Crime Drug Enforcement Task Forces target and pursue the highest levels of organized criminal enterprises trafficking drugs. They focus on those who direct, supervise, and finance the illicit drug trade. These Task Forces utilize the combined resources of DEA, the FBI, the Internal Revenue Service, the Bureau of Alcohol, Tobacco, and Firearms, the Immigration and Naturalization Service, the U.S. Marshals Service, the U.S. Customs Service, the U.S. Coast Guard, the U.S. Attorney's office, and state and local law enforcement agencies. There are presently approximately 300 experienced DEA Special Agents assigned to the 13 Organized Crime

Drug Enforcement Task Forces, and during Fiscal Year 1985 DEA initiated 350 (87 percent) cases in the Program.

DEA also participates, along with eight other federal agencies, in the Vice President's South Florida Task Force.

The Michigan Diversion Impact Program included DEA, state, and local investigators. The 90-day investigative Program resulted in numerous registration revocations and significant civil actions against pharmacies and pharmacists. There has been a drastic reduction in the quantity of controlled substances distributed in Michigan as a result of this operation.

In Fiscal Year 1985, the El Paso Intelligence Center researched and responded to nearly 300,000 inquiries regarding suspect persons, vehicles, aircraft, and vessels. In Fiscal Year 1985, through the El Paso Intelligence Center lookout systems and other El Paso Intelligence Center activities the following seizures were made: 90 aircraft, 149 vessels, nearly 6,000 kilograms of cocaine, 23 kilograms of heroin, and over 800,000 kilograms of cannabis.

DEA has increased efforts to disseminate drug related intelligence. During Fiscal Year 1985, over 1,628 documents relating to drug trafficking were provided to the U.S. Customs Service. A U.S. Customs Service Analyst is assigned to DEA's Office of Intelligence and other Customs Analysts, most of whom will be co-located with DEA, are being assigned to five key overseas posts.

During Fiscal Year 1985, three working groups comprised of DEA and state personnel discussed a variety of diversion control legislative issues. These meetings were conducted as a followup to a 1984 domestic drug policy conference. The legislative issues discussed included model state diversion control programs and multiple copy prescription systems.

DEA trained state and local law enforcement officers both in the field and at the Federal Law Enforcement Training Center at Glynco, Georgia. During this period, the Office of Training conducted two eight-week Drug Enforcement Officers Academies and one Supervisory Drug Enforcement Academy at Glynco, training 68 state and local officers. Additionally, through the DEA Field Division Training Coordinators program of instruction DEA reached over 15,500 state and local officers.

Other Domestic Accomplishments

The Yamaguchi Gumi is described as the largest organized crime gang in Japan. Agents from DEA's Los Angeles Field Division arrested Masashi Takenaka, the reputed head of the Yamaguchi Gumi, along with other high ranking members of the gang. Approximately 24 kilograms of methamphetamine and 5.5 kilograms of heroin were seized in this investigation.

In October 1984, Agents from DEA's New York Field Division arrested Schmuell Taragan and Jacob Levy, along

with two other men, on conspiracy charges and possession with intent to distribute heroin. Taragan was identified as a well-known Israeli narcotics trafficker who was the head of Israeli organized crime in Brazil, and said to be shipping 1,000 kilogram loads of cocaine and multikilogram loads of heroin on a weekly basis to the United States.

Agents from DEA's Miami Field Division arrested the head and numerous members of a money laundering organization in Miami, Florida, in September 1985. The organization was transporting \$5 million in U.S. currency out of the country. DEA agents seized approximately \$1.4 million in property. With the cooperation of the Dominican Republic, other members of the organization were arrested in September 1985 and nearly 500 kilograms of cocaine seized.

DEA Agents negotiated with Elijo Briceno, the Belize Minister of Energy and Communications, the purchase and delivery of a load of marijuana. In March 1985, Briceno (no longer a Belize official), his brother, a nephew, and another defendant were indicted in the Eastern District of North Carolina for conspiracy to import cannabis into the United States and possession with intent to distribute over 450 kilograms of cannabis. In April 1985, Briceno was arrested by Agents from DEA's Miami Field Division.

In May 1985, Agents from DEA's Houston Field Division arrested two Lebanese drug traffickers in Austin, Texas, and seized nearly two kilograms of white heroin, the purity level exceeded 95 percent. The investigation continued and the international source of supply was identified.

A significant case involving the Jamie Herrera Mexican heroin trafficking organization of Durango, Mexico, was conducted in Fiscal Year 1985. One hundred defendants of the Herrera organization were arrested in five states, including Jesus Herrera-Diaz who is considered to be the most significant member of the Herrera family in the Chicago area. In addition to the arrests, 17 properties, 30 vehicles, 20 weapons, 3½ kilograms of cocaine, seven kilograms of heroin, and \$250,000 in cash were seized.

A record number of clandestine laboratory seizures were reported by DEA and state and local law enforcement agencies in 1985. DEA was involved in over 300 laboratory seizures. Four drugs dominate clandestine laboratory activity: methamphetamine, phencyclidine (PCP), amphetamine, and cocaine. Clandestine chemists are structurally modifying controlled substances to produce analogs which are not covered under the Controlled Substances Act.

- DEA seized the two known clandestine laboratories responsible for manufacturing fentanyl analogs. Fentanyl analogs can be thousands of times more potent than morphine and the difficulty in evenly distributing the drug during the "cutting" process contributes to the high overdose potential of these analogs. Between

1981 and 1985, 90 users of fentanyl analogs died from overdoses.

- Clandestine chemists attempting the illicit manufacture of meperidine analogs, mainly analog MPPP, have instead produced an industrial chemical (MPTP) which causes symptoms similar to Parkinson's disease. DEA seized the one known clandestine laboratory responsible for the MPTP analog. As a result of contact with the MPTP analog, some 200 people in northern California have contracted this disorder, some of whom are permanently affected.

The diversion of pharmaceutical drugs such as amphetamines and barbiturates from legitimate sources and the clandestine manufacturer of drugs, such as PCP, continue to be a nationwide problem. As a result of investigative efforts:

- Seventy-eight targeted investigations of registrant violators operating at the Class I and II levels (DEA's highest classes of violators) and 250 additional criminal investigations in conjunction with the states resulted in 195 arrests, with asset removals, criminal fines, and civil penalties totaling \$2.92 million.
- Approximately 600 scheduled cyclic investigations of registered drug wholesalers and manufacturers were conducted to ensure compliance with the Controlled Substances Act.
- Seventy-three public interest revocation cases were also pursued. These cases were initiated under the new public interest revocation authority granted to DEA as part of the Comprehensive Crime Control Act of 1984.

Major intelligence accomplishments during Fiscal Year 1985 spanned the enforcement spectrum:

- Several airstrip inventories were developed for high density air trafficking areas in Latin America. These inventories pinpoint the precise location and characteristics of both legal and clandestine airstrips and serve as a key planning tool for strategic and tactical operations.
- A comprehensive analysis of seized wholesale cocaine shipments allowed DEA to link cases and define conspiracies in Operation FOUNTAINHEAD. The single analysis of one seizure allowed intelligence analysts to link over 140 other cases. This contributed to the initiation of another special operation, Operation BOOKKEEPER, where analysts linked cases and defined conspiracies through the comprehensive analysis of seized documents and their comparison with Operation FOUNTAINHEAD intelligence. Intelligence developed through Operation BOOKKEEPER has played a significant role in targeting major Colombian traffickers.

Throughout the year, DEA publishes four recurring intelligence reports: the DEA Monthly Digest of Drug Intelligence, the Quarterly Intelligence Trends, the Narcotics Intelligence Estimate, and the Significant Events In Colombia Which Could Impact DEA Operations and Personnel.

In addition, the following special reports were completed: Clandestine Laboratory Seizures in the United States, Cocaine Laboratory Seizures in the United States, Domestic Marijuana Trafficking Report, Twenty City Report: The Illicit Drug Situation In Metropolitan Areas, Illicit Drug Situation in the United States and Canada, and Worldwide Cocaine Trafficking Trends.

DEA has been working closely with other federal agencies and the American Bankers Association since August 1984 to develop and present seminars on money laundering and the Bank Secrecy Act. These seminars are designed to increase the awareness of financial institution employees to drug money laundering problems and to educate them on record-keeping and reporting requirements as required by U.S. laws and regulations.

Initially, the seminars were presented at a variety of locations by a team of government agents and private sector consultants who traveled to each conference location. In October 1984, DEA initiated plans to replace the traveling seminar program with a 60-city closed circuit telecast. The Administrator participated in a one-day pre-taped telecast which was introduced by Vice President Bush. DEA and other participating enforcement agencies provided a field Special Agent at each of the 60 locations where the telecast was shown in a seminar environment.

Support Accomplishments

The Office of Chief Counsel implemented relevant provisions of the Comprehensive Crime Control Act of 1984. This allowed for the emergency scheduling of three substances into Schedule I of the Controlled Substances Act. It also conducted hearings as part of the regular scheduling procedures in two other actions. In addition 81 Orders to Show Cause were prepared by Attorneys in the Chief Counsel's Office proposing the revocation, suspension, or denial of a registration to handle controlled substances. Fifty-eight cases were docketed with the DEA Administrative Law Judge for hearing and 27 hearings were conducted.

The Office of Chief Counsel also assisted in hearings on the Environmental Impact Statement on the Eradication of Cannabis on Federal Lands in the Continental United States, and drafted legislation for controlled substance analogs.

As a member of the Department of Justice Subcommittee on Asset Forfeiture, the Chief Counsel's Office assisted in the development of the Attorney General's Guidelines on Seized and Forfeited Property. In Fiscal Year 1985, the Office of Chief Counsel processed over \$122 million in seized

assets, approximately double that of Fiscal Year 1984. DEA alone contributed the maximum allowable amount to the Department of Justice's Asset Forfeiture Fund.

In addition, attorneys from the Office of Chief Counsel provided over 1,000 hours of instruction at DEA training schools for DEA and FBI Special Agents, DEA Diversion Investigators, and state and local officials.

During Fiscal Year 1985, the Office of Congressional and Public Affairs participated in 10 congressional or staff delegations on international narcotic fact-finding missions and prepared DEA witnesses for 31 congressional hearings. The Office responded to over 600 written inquiries and nearly 800 telephone inquiries from the Congress and monitored the progress of 350 pieces of legislation introduced during the First Session of the 99th Congress.

In Fiscal Year 1985, the Office of Inspections conducted inspections of 12 foreign offices, 10 domestic Field Divisions, three field laboratories, one Headquarters division, and two Headquarters programs. Fiscal audits, vulnerability assessments, and internal control reviews were also performed in conjunction with each inspection to ensure compliance with OMB Circular A-123 and the Federal Managers' Financial Integrity Act.

The closing of Fiscal Year 1985, not only highlighted DEA's Physical Fitness Program's first anniversary, but also marked a year of significant achievements. During 1985, DEA trained 60 additional Fitness Coordinators for a total complement of 120 Coordinators assigned to Field Divisions. DEA also developed a computer program to record and analyze health/fitness data and at the same time, monitor the status of the mandatory biannual health and medical screening and field assessment testing. A DEA Health and Fitness Newsletter was initiated to create a greater awareness of health and fitness related areas among DEA employees and to highlight DEA employees who made significant achievements in their personal lifestyles.

The Office of Personnel accomplished an unprecedented recruitment, selection, and hiring of 152 Special Agent candidates during a two-month period, for a total of 269 in Fiscal Year 1985. During Fiscal Year 1985, the Office of Training conducted Basic Agent Training for 173 new Special Agents.

DEA information systems and data processing initiatives and accomplishments included:

- the implementation of the Text Analysis System to enhance the intelligence capabilities of the El Paso Intelligence Center;
- the use of microcomputers to support Title III (electronic surveillance) investigations;
- the development of the Controlled Substances Information System as an on-line system which acts as an encyclopedic data base of information on approximately

1,500 controlled substances and chemicals, their manufacturers, hazards, physical properties, toxicity, and uses (legitimate and illegitimate);

- the development of the Precursor Chemical Information System as an on-line system which documents sellers and buyers of precursor chemicals needed to produce dangerous drugs, e.g., methamphetamine, PCP, LSD, methaqualone, etc.;
- the preliminary testing of the automated extraction of data gathered from pen registers and the entry of the data into DEA's automated information systems; and
- the conversion of DEA's system used to register firms and individuals under the Controlled Substances Act to an on-line entry of transactions involving the Controlled Substances Act registrant population.

During 1985, the forensic laboratory system supported DEA and FBI Special Agents, Organized Crime Drug Enforcement Task Forces, other federal agencies, and state and local agencies by providing: laboratory analyses of over 40,000 drug evidence exhibits, expert testimony by chemists in over 700 trials, and direct field assistance over 200 times. The laboratories provided information on illicit drug availability and trends by conducting over 800 ballistics examinations, over 900 Heroin Signature analyses, and over 200 Domestic Monitor analyses.

Management Improvements

Under the auspices of the National Drug Enforcement Policy Board, DEA directed and coordinated the development of the Federal-wide Drug Seizure Statistical System which is designed to be the central repository or data base for the accumulation of statistical information on all federal drug seizures. The information from this system will be used to facilitate all drug law enforcement efforts as well as providing the Office of Management and Budget and high level federal managers a gauge of the level of activity in the overall federal drug enforcement program.

DEA developed and implemented a new strategic planning process which identifies long-term policy goals and provides for the development of derivative policy and management objectives. The process is designed as a management prerogative. It is intended to facilitate the development of long-range policy and program issues, eliminate unnecessary or inconsistent policies and programs, and establish a clear linkage between policy created by top management and action carried out by all agency components. In addition, this process will provide DEA with the

ability to derive budget assumptions from a clear statement of policy goals and objectives which will project the implementation of agency policy for the ensuing three years. The first phase of the strategic planning process was initiated in June 1985.

The Office of the Controller, newly established in the fall of 1984, achieved significant progress in improving accounting operations and budget preparation. This Office also coordinated 96 vulnerability assessments for DEA's A-123 Program.

The DEA intelligence library, with fully automated search capabilities, was established in Fiscal Year 1985. The collection of intelligence reports and publications includes nearly 2,000 individual documents from DEA and other agencies.

During Fiscal Year 1985, DEA expanded the vehicle maintenance program, using FBI maintenance facilities, to include 30 cities. DEA also awarded a contract, negotiated jointly with the FBI to generate cost savings for employee relocation. This was the first contract under the new legislation.

DEA moved its training functions from the Federal Law Enforcement Training Center at Glynco, Georgia, to the FBI Academy at Quantico, Virginia, to facilitate effectiveness and efficiency of operations and to provide drug law enforcement training to FBI Basic Agents and participants in the FBI National Academy. As an integral part of DEA's overall training program there were several new initiatives in Fiscal Year 1985:

- Revisions to the Basic Agent Training Program increased the training cycle to 13 weeks. These revisions included an emphasis on Asset Removal training and Automated Information Systems training, to enable the newly assigned Basic Agents to enter the field force fully qualified to participate in and initiate complex financial and conspiracy investigations using a multidiscipline approach.
- To combat the increasing threat to DEA Agents overseas, anti-terrorist training opportunities were increased significantly. An Individual Terrorist Awareness Program was initiated with the priority of selection given to Agents assigned to foreign posts of duty.
- Automated Informations Systems training was initiated to prepare field personnel for the implementation of a new Data Base Management System in Fiscal Year 1986.

DRUG ENFORCEMENT ADMINISTRATION

FY 1985

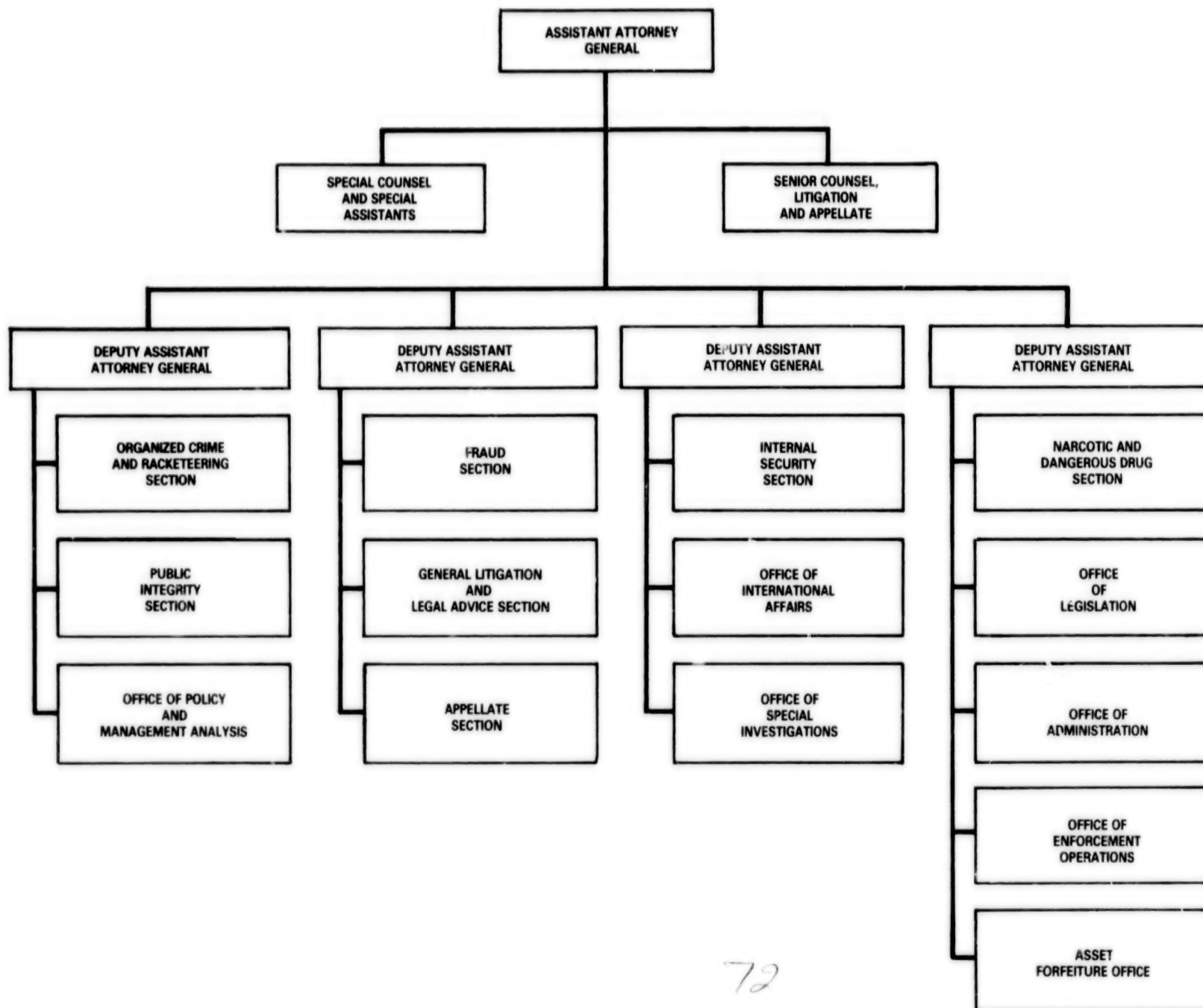
FISCAL YEAR 1985

ENFORCEMENT ACCOMPLISHMENTS

	<u>FY 1985</u>		
1. TOTAL DOMESTIC ARRESTS*	15,695	4. CLANDESTINE LABORATORY SEIZURES***	329
Total Domestic			
Case Class I and II**Arrests	9,359	5. ASSET REMOVALS****	
Percent of Total Domestic		Total Seizures*****	\$200,000,000
Arrests that are		DEA Forfeitures	\$35,000,000
Case Class I and II	59.6		
2. TOTAL DOMESTIC CONVICTIONS*	10,549		
Total Domestic			
Case Class I and II			
Convictions	6,232		
Percent of Total Domestic			
Convictions that are			
Case Class I and II	59.1		
3. DOMESTIC DRUG REMOVALS			
Heroin (kilograms)	446.2		
Percent in Case Class I and II	75.0		

Cocaine (kilograms)	17,613.1
Percent in Case Class I and II	93.0
Cannabis (kilograms)	740,260.9
Percent in Case Class I and II	82.0
Dangerous Drugs (dosage units)	25,869,000
Percent in Case Class I and II	81.0

- * Arrest and Conviction statistics do not necessarily refer to the same person. From FY 1984 to FY 1985 there was a 19.6% increase in Total Domestic Arrests.
- ** Class I and II Cases pertain to DEA's highest level of drug violator. From FY 1984 to FY 1985 there was a 25.6% increase in Case Class I and II Domestic Arrests.
- *** Seizures include DEA and DEA Cooperative Cases.
- **** Asset Removal Data are estimated.
- ***** Total Seizures include DEA and DEA Cooperative Cases.

CRIMINAL DIVISION

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Criminal Division

Stephen S. Trott
Assistant Attorney General

The mission of the Criminal Division is to establish federal criminal law enforcement policies and facilitate their implementation. It is responsible for the general supervision of all federal criminal laws, except for those specifically assigned to the Antitrust, Civil Rights, Land and Natural Resources, or Tax Divisions. In addition, the Division supervises certain civil litigation arising under the federal liquor, narcotics, counterfeiting, gambling, firearms, customs, and agriculture laws. Also, the Division is responsible for civil litigation arising from petitions from writs of *habeas corpus* by members of the Armed Forces, actions brought by or on behalf of federal prisoners, alleged investigative misconduct, and legal actions related to national security issues.

Assisting the Assistant Attorney General are four Deputy Assistant Attorneys General who aid in directing the Division's operating components which consist of seven line sections and seven staff offices. The activities of the Division include reporting to the Congress on matters pertaining to criminal law, coordinating the activities of the 94 U.S. Attorneys and the federal investigative agencies, and conducting litigation in organized crime, public corruption, fraud, narcotic and other cases. In addition, certain specific types of litigation or investigative activities (e.g., securing wiretap orders) are directly controlled by the Criminal Division.

The following descriptions outline the functions and Fiscal Year 1985 activities of each section and office in the Division.

Organized Crime and Racketeering Section

The Organized Crime and Racketeering Section develops and coordinates nationwide enforcement programs to reduce the influence of organized criminal groups on the economic, political, and social institutions of the United States. Historically, the activities of organized crime have included the distribution of narcotics, loansharking, the infiltration of legitimate business, labor unions, law enforcement groups and government, and the violent intimidation of the public.

The Organized Crime and Racketeering Section operates to thwart these activities by engaging in the investigation and prosecution of organized crime activities, coordinating the efforts of federal investigative agencies and U.S. Attorneys that are directed against organized crime, assisting the National Organized Crime Planning Council in coordinating enforcement efforts, and overseeing the enforcement of

federal criminal statutes in the areas of labor-management relations, internal labor union operations, and various vice-related crimes.

Most of the attorneys in this Section are assigned to 14 Organized Crime Strike Forces and 11 field offices operating in 25 major cities across the country. The Section's activities in Washington, D.C., primarily involve liaison with the National Organized Crime Planning Council, the formulation and coordination of general policies, and the provision of litigation support services as required by field operations.

Some of these cases that were concluded by the Organized Crime Racketeering Section in 1985 are reviewed below.

Infiltration of Legitimate Business. In Philadelphia, Pennsylvania, Cosmo "Gus" Aiello, a Bonanno family member, pled guilty to conspiracy to manufacture and distribute 168,000 unauthorized counterfeit IZOD-LACOSTE "alligator" shirts in the United States, Europe, and Japan.¹ Aiello, however, was murdered while awaiting sentencing. In Boston, Massachusetts, the First National Bank of Boston pled guilty to failing to file Currency Transaction Reports for international currency transactions with foreign banks, totaling 1.22 million. The Bank was fined \$500,000, the largest ever imposed and paid by a financial institution for currency violation. The conviction arose out of an investigation of money laundering on behalf of La Cosa Nostra underboss Gennaro J. Anguilo, and the businesses controlled by Anguilo and his brothers.²

Intimidation through Violence. In Rochester, New York, seven individuals, the entire hierarchy of the Rochester Organized Crime Family, were each sentenced to 40 years. The indictment charged the defendants and others comprised a criminal organization whose purpose included obtaining monies by engaging in illegal means, protecting the organization from rival groups by murder and arson, and thwarting investigations and prosecutions of its membership by murder and obstruction of justice. The indictment alleged 12 acts of racketeering committed over the 11-year period, including two murders, three attempted murders, two extortions, one arson and four obstructions of justice.³

Corruption of Public Officials. In Chicago, Illinois, Dean S. Wolfson, the so-called dean of the fixers among lawyers in the Cook County Circuit Court, was sentenced to 7½ years of incarceration, a consecutive period of five years' probation, and fined \$3,000 for conducting the affairs of the Cook County Circuit Court through a pattern of bribery.⁴

Drug Trafficking. In Syracuse, New York, eight defendants were convicted for distributing thousands of pounds of marijuana and kilo quantities of cocaine throughout central New York. The evidence showed that the defendants used Florida suppliers and the Mexican Mafia as their narcotics sources. Two of the defendants received sentences of nine years and were fined \$25,000.⁵ In Cleveland, Ohio, a La Cosa Nostra associate, Bernard Stella, was sentenced to two concurrent terms of eight years for a Racketeer Influenced and Corrupt Organizations (RICO) conspiracy and cocaine distribution, and two concurrent five-year terms for tax evasion. Stella was found to have used his air freight company as a front for his cocaine business.⁶

Labor Racketeering. In Philadelphia, Pennsylvania, Robert Delker, the business representative, and Richard Malgadey, the president of Lehigh Valley Painters' Union Local 1269, were sentenced to 35 years and 10 years, respectively. The defendants were convicted of conspiring to dominate the union through the systematic use of force, violence, threats, acts of vandalism and physical and economic intimidation. Delker's brother, Franklin, pled guilty, testified at the trial, and was sentenced to serve three years for his part in the conspiracy.⁷

Narcotic and Dangerous Drug Section

The mission of the Narcotic and Dangerous Drug Section consists of: 1) the prosecution and conviction of high-level drug traffickers and members of criminal organizations involved in the importation, manufacture, shipment, and distribution of illicit narcotic and dangerous drugs; 2) the analysis and execution of the Criminal Division's drug prosecution policies; 3) the training of agents and prosecutors in the techniques of major drug litigation; and 4) the general support of controlled substances litigation in the offices of the U.S. Attorneys.

In carrying out its mission the Section maintains a litigation staff to prosecute nationwide complex cases against major drug trafficking organizations. It maintains task force operations in the Southern District of Florida and Puerto Rico for the purpose of conducting grand jury investigations and prosecuting money launderers facilitating major drug trafficking organizations. The Section also conducts the litigation arising out of the regulatory functions of the Drug Enforcement Administration.

In addition to litigation, the Section provides legal assistance to members of the federal law enforcement community in the form of legal support, training, and special projects.

Some of the major accomplishments of the Narcotic and Dangerous Drug Section in Fiscal Year 1985 include the following.

Major prosecutions. The Section prosecutes directly and/or assists the U.S. Attorneys in major international and multidistrict cases. These cases usually involve significant violators or the testing of innovative prosecutorial methods, especially in the area on narcotics-related financial investigations.

The following are prosecutions for which the Section attorneys were directly responsible or in which they assisted the U.S. Attorneys:

- In Nevada, the Section prosecuted the principals in a heroin distribution ring that reached all the way to Palestine. All the defendants were convicted in a conspiracy prosecution.⁸ The leader of the ring was sentenced to 40 years and fined \$50,000.
- In a Drug Task Force investigation in Phoenix, 39 individuals were charged in a 77-count indictment, including continuing criminal enterprise and related narcotics counts, tax charges, RICO, and money laundering violations. The defendants in the case are thought to have been responsible for the distribution of 200,000 pounds of marijuana and 30 kilos of cocaine. All of the defendants tried were convicted.⁹
- In a Drug Task Force investigation, Operation Checkmate II in Miami, 23 individuals were indicted for conspiracy and money laundering. At the end of 1985, 17 defendants had been convicted.¹⁰
- In Tampa, the Narcotic Section prosecuted 18 defendants for conspiracy, money laundering and racketeering involved RICO charges. The principal targets included a St. Petersburg attorney and his stockbroker.¹¹ Sixteen defendants were convicted and they received sentences that ranged from 160 years and a \$25,000 fine to six years.

Federal law enforcement support and instruction. In addition to the criminal prosecutions handled by Section attorneys, the Section provided litigation support in the following areas: 75 consultations concerning continuing criminal enterprise prosecutions, with Dangerous Special Drug Offender applications, 18 consultations on the parole of aliens into the United States, three consultations on provisional arrest for extradition, 684 consultations on pretrial detention in narcotics cases (534 granted, 150 denied), 100 requests for electronic surveillance, and 76 requests for witness protection in narcotics cases, four consultations on the utilization of the pharmacy robbery statute, and 14 consultations on dual prosecution of defendants following a previous state or federal proceeding. Also in 1985, the Section published five Narcotics Newsletters, sponsored three annual training conferences for agents and prosecutors, provided legal advice to various elements of the federal law enforcement community, including the Coast Guard. The Section promoted interagency cooperation

through the development of policies concerning the dissemination of classified information to prosecutors for use in litigation and policies affecting the coordinated use of equipment and other resources at the disposal of the various enforcement agencies.

Fraud Section

The Fraud Section is charged with directing the federal enforcement effort against fraud and white-collar crime. It fashions and implements white-collar crime policy and provides support to the Criminal Division, the Department, and U.S. Attorneys concerning legal and investigative guidance, and, when required, provides staffing for investigations, and conducts grand juries, and trials involving types of criminal activity that require centralized treatment because of the complexity of the scheme, the multidistrict nature of the activity, the sensitivity of the issues, or the necessity of demonstrating with model prosecutions the viability of a particular statute, theory, or technique. The Section also provides training and the sharing of information with other members of the federal, state, and local enforcement community to enhance the federal government's overall effort to combat white-collar crime.

Some of the specific accomplishments of the Fraud Section in 1985 are summarized below.

Conduct of litigation. The Fraud Section concluded a number of successful prosecutions that exceeded the capacity of individual U.S. Attorney offices. The convictions included the guilty plea of E. F. Hutton to 2,000 counts of mail and wire fraud; the guilty plea of Jake Butcher and others for insider bank fraud that caused several bank failures in Tennessee and Kentucky; the guilty plea of Paul Thayer, former President of LTV Corporation, for perjury on an insider stock fraud; the guilty verdict after trial of Fred Soudan for a \$56 million international insurance fraud; the guilty plea of Crawford Enterprises for the bribery of Mexican State Oil Company officials; and the guilty verdict after trial of Clark Long for misapplication of bank funds.

Orchestration of law enforcement cooperation. Throughout 1985 Fraud Section personnel regularly participated in a wide range of cooperative efforts by local, state, federal, and international law enforcement. Such efforts included membership in the U.S. delegation to the International Organization for Economically Developed Countries to participate in the computer crime meetings; providing or obtaining material under Mutual Assistance Treaties for or from over a dozen countries; regularly participating in the meetings of the Executive Working Group of federal, state, and local prosecutors; conducting training sessions for Law Enforcement Coordinating Committees, the Federal Law Enforcement Training Center, National District

Attorneys Association and numerous individual organizations; participating in the President's Council on Integrity and Efficiency and the several subgroups of the Inspector General community. Further work was accomplished through the creation of a Bank Working Group that was formed and within four months developed an entirely new and more efficient method of criminal case referrals by federal bank regulators.

Through the Economic Crime Council, the Fraud program selects areas of national significance for appropriate focus and attention and develops projects for U.S. Attorneys' offices and the Fraud Section. Present areas and emphasis include health care providers, defense procurement, boiler rooms, insider bank failures due to fraud; insider securities trading, and professional con-artists. While case prosecution is important, detecting the crime is the first step. For example, the Fraud program has developed, along with the Federal Bureau of Investigation, the Economic Crime Index to better identify the top professional con-artists working in the country.

Instruction of prosecutors and investigators. The Fraud Section provided specialized training for federal prosecutors through the semiannual Economic Crime Enforcement Conferences, Fraud and Financial Crime Seminars, Defense Procurement Fraud Seminars, Securities Fraud Seminars, and regional seminars on selected topics. The Section also participated each month in the Federal Law Enforcement Training Center's white-collar crime course and dozens of localized training programs.

Public Integrity Section

The Public Integrity Section is responsible for overseeing the investigation and prosecution of federal crimes involving the abuse of the public trust by elected or appointed public officials at all levels of government and election crimes. It prosecutes selected cases against federal, state, and local officials, and is available as a source of advice and expertise to law enforcement officials and prosecutors at all levels of government. Finally, it is responsible for reviewing and processing all matters arising under the Special Prosecutor's Act.

The major accomplishments of the Public Integrity Section during Fiscal Year 1985 are summarized below.

Official corruption. Two important convictions won by the Public Integrity Section in 1984 were affirmed by the appellate court in 1985. The conviction of former Congressman George V. Hansen of Idaho for the filing of a false financial disclosure statement was affirmed¹² and the conviction of Rita Lavelle, former Assistant Administrator in the Environmental Protection Agency, who had been convicted of perjury and obstruction of a congressional proceeding was similarly upheld.¹³ The Section obtained the conviction of former U.S. Attorney J. William Petro for unlawfully

disclosing confidential prosecutorial information to a friend.¹⁴ The conviction of a former U.S. Attorney exemplified the interest of the Section in prosecuting corruption and misconduct by federal law enforcement officials in a year that was also characterized by convictions of agents of the Drug Enforcement Administration, the Federal Bureau of Investigation, and the U.S. Marshals Service.

Misconduct of federal judges. The Section obtained a court of appeals decision affirming the conviction of a federal judge in the District of Nevada for violation of federal tax laws.¹⁵ In Mississippi, another federal judge was indicted for his intervention in the handling of a federal drug case.¹⁶ His indictment followed the convictions of a number of other public officials and businessmen and an extensive investigation. The case is expected to come to trial in 1986.

Election fraud and conflict of interest. A major prosecution was conducted by the Section in North Carolina where 12 convictions were obtained for vote fraud. Section attorneys successfully prosecuted the Chicago Board of Trade and two corporate officers for illegal campaign contributions.¹⁷ With respect to conflicts of interest, the Section convicted a former Assistant U.S. Attorney in Akron, Ohio, for negotiating for employment with, and accepting loans from, an individual affected by cases being handled by the attorney.¹⁸

Instruction in investigative and prosecutorial methods. The Section conducted a week-long corruption and election fraud conference that was attended by the Federal Bureau of Investigation Agents and U.S. Attorney personnel.

Independent counsel matters. The Section handled all independent counsel matters that arose within the stringent time limits of the Ethics in Government Act.

Misapplication of government property. The Section prosecuted employees from seven different organizations for the misapplication of government property including three employees of the Central Intelligence Agency and two Drug Enforcement Administration employees who were assigned to the South Florida Drug Task Force. The momentum from these prosecutions has stimulated investigations that are now underway and which should produce additional prosecutions in the campaign to control the fraudulent use and/or theft of government property.

Internal Security Section

The Internal Security Section is responsible for enforcement of criminal statutes affecting national security and foreign relations. The Section administers and enforces the Foreign Agents Registration Act of 1938, as amended, and related statutes. Other functions include: 1) supervising the investigation and prosecution of offenses involving espionage, sabotage, and treason, violations of the Atomic Energy Act, the neutrality statutes, the Trading With the

Enemy Act, the Arms Export Control Act, and the Export Administration Act; 2) providing policy guidance, specialized legal support, and litigation support to U.S. Attorneys, intelligence services, and law enforcement agencies involved in national security or foreign relations cases; 3) administering and enforcing the Foreign Agents Registration Act; 4) serving as the focal point for interagency coordination on espionage, neutrality, and arms export control cases; 5) developing and evaluating proposed legislation; and 6) assisting the Interdepartmental Committee on Internal Security and other interagency committees dealing with the national and international coordination of enforcement of export controls laws.

Some of the major cases conducted by the Internal Security Section in 1985 included the following.

Prosecutorial activity. Twelve persons were indicted for espionage on behalf of foreign governments, and two other persons were charged with disclosing national defense information to unauthorized persons. Also, six persons were convicted of espionage, and four others convicted of disclosures of classified information to unauthorized persons.

Among the most significant of the foreign espionage cases were those of John A. Walker, and Jerry A. Whitworth, who were charged with espionage on behalf of the Soviet Union. John A. Walker, a retired Chief Warrant Officer in the U.S. Navy, was arrested in Maryland on May 20, 1985, after he left classified Navy documents at a "dead drop."¹⁹ Subsequent investigation lead to the arrest and indictment of Michael Walker, a Navy enlisted man,²⁰ Arthur J. Walker, a retired Lieutenant Commander,²¹ and Jerry Whitworth, a retired Chief Radioman.²² Arthur Walker was convicted and is awaiting sentencing. The remaining defendants were awaiting trial at the conclusion of the fiscal year.

In another important case, Richard W. Miller, a Special Agent of the Federal Bureau of Investigation, was arrested and charged with espionage offenses involving the Soviet Union. Miller is the only Federal Bureau of Investigation Agent ever charged with espionage. His codefendants, Svetlana Ogorodnikova and Nikolay Ogorodnikov, a Russian emigre couple, pled guilty after two months of trial. Nikolay was sentenced to eight years. Miller's trial began on August 6, 1985, with a mistrial declared after the end of the fiscal year.

Thomas P. Cavanagh, an employee of a major aircraft manufacturer, was sentenced to two concurrent life terms following his plea of guilty to attempting to commit espionage on behalf of the Soviet Union. Cavanagh had offered to sell plans on the Stealth bomber to persons he thought were Soviet agents, but who were undercover Federal Bureau of Investigation Agents.²³

The Section also participated in arranging for a prisoner exchange that came about as a result of successful prosecutions. Three persons who had been convicted of espionage

and a fourth person who was awaiting trial for espionage, were transported to Berlin and exchanged for 25 persons being held in East Germany and Poland as a result of their activities on behalf of U.S. intelligence agencies. Gaining the release of these individuals satisfied a long standing objective of the U.S. government.

Prosecutorial supervision and assistance. The Section supervised 35 cases involving the Classified Information Procedures Act, and organized the Classified Information Seminar which provided training to Assistant U.S. Attorneys and departmental prosecutors and enhanced the ability of the Department to protect national security information during investigations and litigation. In the export control enforcement program, indictments were returned in 42 cases against 112 defendants. The stimulation of this program by the Section has assisted in protecting important neutrality, foreign policy, and national security interests; in particular, the unlawful transfer of military and strategic commodities and technology to the Soviet Union and its Warsaw Pact allies.

Foreign Agents Registration Act. The Section received 105 additional registrations under the Foreign Agents Registration Act, bringing the total number of registrations to 3,741 of which 760 are active. Short-form registrations increased by 705, bringing the total to 17,926 of which 7,566 are active. This aspect of the Section's activities includes indepth inspections of a broad spectrum of registrants to ensure that they comply with the disclosure provisions of the Foreign Agents Registration Act. The Section also conducted field and office conferences to assist registrants in meeting their reporting obligations under the Act. Further, the reports of over 750 active registrants on their finances and political activities were processed as well as approximately 3,000 other documents to ensure that accurate and complete information is available for public review.

General Litigation and Legal Advice Section

The General Litigation and Legal Advice Section has broad jurisdiction encompassing approximately 75 percent of all federal criminal statutes, and a variety of civil responsibilities. The Section's jurisdiction is divisible into five major areas: 1) crimes against government operations including attacks on designated federal and foreign officials and official guests of the United States, violations of the Selective Service Act, counterfeiting, obstruction of justice, perjury, prison escape offenses, and customs and immigration violations; 2) crimes against the public including aircraft maritime piracy, kidnaping, extortion, bombing, bank robbery, illegal electronic surveillance, copyright infringements, obscenity, false identification crimes, arson, firearms violations, and

crimes in the special jurisdiction of the United States; 3) regulatory enforcement relating to the protection of safety, health, and consumer interest in mining and other occupations, the handling of nuclear materials, the marketing of agricultural products, and the disposition of hazardous and toxic wastes; 4) special civil matters, such as the defense of civil actions to obtain information or to interfere with criminal justice and national security operations; and, 5) prison/parole matters, such as the defense of suits challenging the legality of federal sentences, probation and parole actions, conditions of confinement, prisoner transfers, including those from foreign custody to the United States, and the treatment of mentally incompetent prisoners.

The major accomplishments of the General Litigation and Legal Advice Section in 1985 are summarized below.

Development of enforcement initiatives. Throughout the year, the Section provided leadership in prosecutorial initiatives aimed at Puerto Rican terrorists, at importers dumping goods on U.S. markets, and at pornographers who use the mail to distribute unsolicited, sexually oriented material.

Section attorneys helped staff a Special Prosecution Task Force in Puerto Rico to investigate terrorist activities engaged in by members of known Puerto Rico independence terrorist groups operating on the island. Another investigation into serious criminal activity by organized groups, comprised in part of Puerto Rican police officers, resulted in the return of seven indictments, against 26 defendants, of whom six were active or former police officers. The most significant case involved the June 1985 conviction of five defendants for violations of the civil rights statutes resulting from the May 1980 murder of Griselle Gonzalez-Ortiz who was to be the Puerto Rican government's key witness in a murder prosecution.²⁴ Two of the defendants were Puerto Rican police officers and another was an attorney who represented the defendant in a case in which the victim was to testify. Section attorneys also prepared the briefs that resulted in the Fifth Circuit's affirmation of the income tax conviction of Eugene Tafoya, holding that the government proved that Tafoya "received payments from Edwin P. Wilson for assassinations Tafoya attempted while in the employ of Wilson."²⁵

Section attorneys were involved in several cases at the request of the U.S. Customs Service involving the dumping of foreign-produced goods in the U.S. market at prices below that at which they could optimally be produced. Daewoo Industrial Company (a major Korean trading company) and Daewoo International (American) Corporation (its U.S. subsidiary), pled guilty to various criminal charges arising from the importation of South Korean steel into the United States.²⁶ The main defendant pled guilty to a separate conspiracy charge and was sentenced to the maximum fine of \$10,000. The corporation was sentenced to the maximum fine on all counts, for a total of \$205,000. C. Itoh, Inc., a giant Japanese trading company, pled guilty in the Southern

District of Texas to a nine-count information charging violations of the false statement statute.²⁷ The charges resulted from the filing of false invoices with the Customs Service, overstating the actual sale prices of the steel, to conceal the fact that the real prices were below the trigger price. Several other grand jury investigations were proceeding at the end of the year. The cases are being prosecuted with the intent of discouraging foreign exporters from circumventing import price instructions and thereby damaging domestic industries and increasing unemployment.

The Section continued to press forward on its initiatives in the obscenity area. Since the amendment of the child pornography statutes on May 21, 1984, nearly twice as many defendants were indicted as during the prior 6½ years and approximately 1½ times as many defendants were convicted as during the prior period. During 1985, 104 defendants were indicted and 91 were convicted for child pornography. The Section serves as the Criminal Division's representative on the Interagency Group to Combat Child Pornography, which has met with representatives of governments of the principal exporting countries. The Section held a seminar for Assistant U.S. Attorneys on the "nuts and bolts" of developing and trying of child pornography and obscenity cases.

Litigation assistance to U.S. Attorneys. Section attorneys develop and prosecute major cases under a vast range of statutes, when appropriate, due to recusal, lack of resources, or pertinent expertise in U.S. Attorneys' offices.

In a case jointly handled by the Southern District of Iowa and the General Litigation and Legal Advice Section, Louis Kenneth Risken was convicted of obstruction of justice based on a plot to kill a union president and false statements to an acquaintance that the plot had been a sham.²⁸ Section attorneys successfully prosecuted Elizabeth Mary Cornelius in the Southern District of Mississippi on charges resulting from Cornelius' activities as a registered nurse assigned to the intensive care unit of the Kessler Air Force Base Medical Center in intentionally interrupting the oxygen supply to seriously and terminally ill patients causing oxygen starvation.²⁹ In a case jointly handled by the U.S. Attorney's office for the District of Hawaii and the General Litigation and Legal Advice Section, Buck D. Walker was convicted of first-degree murder. The charge resulted from the murder approximately 10 years ago of a yachting couple who sailed from San Francisco to Hawaii and continued on to Palmyra Island, a U.S. possession in the Pacific Ocean.

Defense of civil suits related to criminal justice activities. Section attorneys defend civil suits seeking to obtain information on or to interfere with criminal justice activities and national security operations. For example, Section attorneys represented the government in the Western District of Washington concerning Gordon Hirabayashi's motion to vacate and dismiss convictions for violations of military

curfew and exclusion orders propounded in 1942 pursuant to 56 Stat. 173 (P.L. 503). At the end of the year the court had the matter under review.³⁰ Section attorneys also successfully defended an action for injunctive relief and monetary damages against nine individual Parole Commissioners based on alleged denials of due process in parole recision hearings.

Other advisory and program responsibilities. The Section was involved in 745 litigation support activities, including major involvement in structuring the Selective Service non-registrant enforcement program, obtaining the Title III wiretap authorizations in the investigation of the robbery of the bank of Boston (an indictment was returned charging 17 codefendants), participating in crime resistance programs and providing legal and policy advice to components of the federal community relating to the more than 50 percent of federal criminal statutes enacted over the past few years, including over half of the Comprehensive Crime Control Act of 1984, which are assigned to the Section.

Office of Special Investigations

In 1978, Congress enacted P.L. 95-549 which renders deportable any alien in the United States who took part in persecution of individuals, in collaboration with the Nazi regimes of Europe from 1933 to 1945. The Office of Special Investigations was established in May 1979 and was charged with the sole mission of investigating and prosecuting Nazi war criminals living in the United States. The legal framework within which the Office operates is the Immigration and Nationality Act, which sets forth specific provisions for dealing with persons involved in war crimes.

Some of the specific accomplishments of the Office of Special Investigations during 1985 include the following.

Identification of war criminals. The Office of Special Investigations began actively to gather 9,400 names of potential war criminals discovered by archival research and to compare them to immigration files to determine if they had entered the United States. The Immigration and Naturalization Service found over 3,500 possible matches and the Office of Special Investigations has opened 65 cases to date.

In addition, the Office of Special Investigations submitted to Immigration and Naturalization Service 9,900 names of individuals who were rejected under Section 13 of the Displaced Persons Act for a determination as to whether any of these individuals subsequently entered the United States. The Office of Special Investigations is currently screening these 700 individuals to identify those against whom legal action should be initiated.

Investigation of allegations. Thirty-nine investigations were closed in Fiscal Year 1985 because: 1) allegations could not be substantiated and/or corroborated; 2) the suspect died; or 3) on five occasions, the subject agreed to depart the

United States to avoid prosecution. Of special significance this year was the first deportation of an individual to the Soviet Union.

Denaturalization and deportation of war criminals. Four new cases were filed in 1985, two denaturalizations and two deportations. Ten cases are currently on appeal including seven appeals that were brought by the defendants after government victories. Two denaturalization cases were successfully closed, as were two deportation cases. In both of the latter cases, the respondents fled the country. Eight war criminals have departed the United States to date, and one was awaiting effectuation of his Order of Deportment at the conclusion of 1985.

Solicitation of cooperation from foreign governments. The Director of the Office of Special Investigations and his representatives have met personally this year with diplomatic and judicial officials of the Federal Republic of Germany, the USSR, Poland, Yugoslavia, Israel, Brazil, Italy, and France. Representatives of the Canadian Deschenes Commission have traveled to Washington twice this year to meet with the staff of the Office of Special Investigations and exchange valuable information useful to both parties in the search and prosecution of war criminals.

Appellate Section

The Appellate Section assists the Solicitor General in carrying out his function as the government's advocate before the Supreme Court in criminal cases. Section lawyers write petitions for and briefs in opposition to *certiorari*, briefs on the merits after the granting of *certiorari*, and memoranda in opposition to stay, and bail applications. The Section attorneys also write briefs and rehearing petitions and present oral arguments in the various courts of appeals. Another primary function of the Section is to review decisions adverse to the government in the district courts and the courts of appeals in order to determine whether the decisions merit further review. In such instances, the Section advises the Solicitor General in performing his function of authorizing or declining to authorize appeals, mandamus petitions, rehearing *en banc* petitions, and *certiorari* petitions. Finally, the Section also gives advice on legal problems to the Assistant Attorney General, to other components in the Department, and to U.S. Attorneys.

The most notable accomplishments of the Appellate Section during 1985 follow.

Briefs and petitions in Supreme Court cases. The Appellate Section assisted the Solicitor General by preparing responses to defense petitions in 317 cases. In addition, it reviewed over twice that number to determine which petitions required a response from the government. In cases in which *certiorari* was granted by the Court, draft briefs were

prepared by the Section. Of particular importance were the following:

- *Luce v. United States*, in which the Court held that a defendant must testify before he may preserve for appeal his challenge to the district court's in limine ruling that specific impeachment material would be available to cross-examine him.
- *United States v. Sharpe and Savage*, in which the Court held that a delay in conducting a "Terry" type stop did not vitiate the lawfulness of the search where such delay was necessary for law enforcement officers to conduct an investigation of the suspected activity.
- *Garrett v. United States*, which permits successive prosecutions of continuing criminal enterprise offense and one of underlying offenses, and consecutive sentencing.

Circuit court of appeal cases. Approximately 200 court of appeal cases were handled by the Section. Examples of these appeals were:

- *United States v. Kowalchuk*, which reversed the panel decision holding that defendant did not make a "material misrepresentation" regarding his pro-Nazi activities upon entering this country after World War II, and rejects the argument that Soviet control or influence over discovery requests violated due process.
- *United States v. White*, upheld this fraud conviction in a complex case involving multiple fraudulent "change orders" submitted in connection with the construction of the space shuttle.
- *United States v. Woodley*, upheld the President's power to make recess appointments of judges.

Formulate innovative approaches to appellate issues. Prior to involvement by the Appellate Section, three courts of appeals had strictly construed the bail provisions of the Comprehensive Crime Control Act to preclude pretrial detention unless a request for such relief was made at the first appearance. The Appellate Section persuaded the court to reverse the panel decision, and depart from two other court of appeals opinions on this issue, holding instead that the Act only required a timely detention hearing after the request for detention was made. Similarly, the Section convinced the court of appeals in one of the other two adverse decisions to vacate its adverse precedent and obtained a favorable unpublished ruling on this issue in the Ninth and Eleventh Circuits.

Office of Legislation

The Office of Legislation contributes to the Department's legislative efforts through the systematic review, analysis, implementation, and evaluation of criminal justice legisla-

tion and other congressional actions. Functions of the Office include: 1) developing, in cooperation with federal agencies, legislative proposals, legal memoranda, and statements to be given before Congress by officials of the Department; 2) drafting responses to inquiries from congressional committees and government agencies concerning proposed legislation; 3) preparing legal memoranda relating to the implementation of recently enacted statutes; 4) coordinating substantive opinions and recommendations on legislation from the Division's sections and offices for presentation to the Congress.

The major accomplishments of the Office of Legislation are summarized below:

- With the signing of the Comprehensive Crime Control Act of 1984, the most significant piece of criminal justice legislation ever enacted at one time and a bill that was largely drafted by this Office, the Office coordinated the preparation of instructions concerning the new Act for dissemination to field offices. Included in this material were immediate instructions on the application of such key features as bail reform, and a lengthy handbook containing a detailed legal and policy analysis of each of the Act's provisions.
- The Office prepared an extensive bill containing technical amendments rendered necessary by the passage of the Comprehensive Crime Control Act. The bill was sponsored by the Chairman of the Judiciary Committee in each house, and is presently pending in the Congress.
- The Office drafted a comprehensive bill dealing with money laundering. The bill would create a new offense of laundering the fruits of crime, would remove certain restrictions in the banking laws that now make the tracing of "dirty" money unnecessarily difficult, and other needed provisions.
- The Office prepared a bill amending the Controlled Substances Act to combat the problem of "designer drugs." These are drugs which are substantially similar to the most dangerous controlled substances, but which are not illegal because they have not been specifically listed in the schedules of substances promulgated under the Act.
- The Office continued its work in preparing numerous letters and congressional testimony on death penalty legislation. A bill largely drafted in the Office is presently awaiting consideration by the Senate Judiciary Committee.
- The Office prepared the Department's bill on computer crime, one of eight bills submitted as the Department's Anti-Fraud Enforcement Initiative. The bills are presently pending. The Office also prepared numerous reports and testimony on this subject.

- The Office prepared a bill to provide for the payment to the clerk of the court of fines or penalties imposed by a U.S. magistrate. Congress, through the Criminal Fine Enforcement Act of 1984, generally shifted responsibility for the receipt of fines from federal court clerks to the Attorney General. The proposal would provide for more effective and efficient procedures to assure the payment of fines and penalties in cases tried by magistrates.

Office of Policy and Management Analysis

To analyze policy and management issues relating to enforcement programs and make recommendations to senior managers in the Division and the Department, the Office of Policy and Management Analysis:

- Provided analytic support to the Division's Asset Forfeiture Office and the Deputy Attorney General related to the implementation of the new forfeiture provisions of the Comprehensive Crime Control Act. In particular, the development of guidelines, forms, and administrative procedures for equitable sharing with state and local law enforcement agencies.
- Provided analytic support to the Economic Crime Council in its assessment of white-collar crime problems. In particular, assisted in preparing a report on defense procurement and health care, and began a study examining sentencing issues related to white-collar crime in anticipation of the new Sentencing Commission.
- Examined federal white-collar crime enforcement trends for the Fraud Section.
- Prepared a study analyzing the international prisoner transfer process for the Office of International Affairs.
- Began evaluation of the implementation of the Bail Reform Act of 1984, part of the Comprehensive Crime Control Act. Assessed alternative systems for reporting on the use of the new pretrial detention provisions.
- Designed and conducted field work for an evaluation of the Domestic Cannabis Eradication Program requested by the National Drug Enforcement Policy Board, which was created by the Comprehensive Crime Control Act.
- Provided analytic assistance to the National Drug Enforcement Policy Board staff on other projects, including preparing the Board's first report to Congress, reviewing an options paper on drug crisis management, and developing procedures for implementing the Board's interagency budget review authority.

- Provided analytic support to the Organized Crime Drug Enforcement Task Forces, including an Office Procedures Manual, the Case Monitoring System, and compilation of statistics for the Annual Report.
- Assessed the potential applications of video-conferencing technology to the Witness Security Program. Began an analysis of recidivism rates of Witness Security program participants.
- Prepared a background paper concerning coordination of drug interdiction efforts.

To assist in developing Division policies and enforcement programs, and help coordinate the exchange of information with other components of the law enforcement community, including agencies and research institutions, the Office of Policy and Management Analysis:

- Developed and presented to the Deputy Attorney General the organization and staffing plan for the new National Drug Enforcement Policy Board;
- Represented the Division on advisory boards set up to solicit and evaluate criminal justice research projects; and
- Reviewed draft reports, proposed legislation, research proposals and draft studies at the request of the Division, the National Institute of Justice, the Bureau of Justice Statistics, the Office of Legal Policy, and others.

Office of Administration

The Office of Administration provides a wide range of administrative services to the sections, offices, and field operations of the Criminal Division through the following operations units: 1) the Personnel Unit, 2) the Fiscal Unit, 3) the Mail, File and Records Unit, 4) the Procurement, Security, Safety and Space Unit, and 5) the Information Systems Unit.

Among the functions performed by the Office of Administration are: 1) the development of policies and plans relative to the administrative management and organization of the Division; 2) the preparation of annual and supplemental budget estimates; 3) fiscal management including the planning and control of the funds assigned to the Division; 4) handling personnel management functions, including employment actions, promotion, training, and counseling; 5) collecting caseload and workload statistics; 6) handling maintenance and procurement requests for workspace, office equipment and services, and repairs and renovations; 7) authorizing temporary duty travel and duty station transfers, parking permits, identification cards, and printing requisitions; 8) protecting classified and sensitive materials and processing personnel security clearance requests; 9) inspecting the Division's workspace to assure

compliance with security, safety, and health standards; and 10) designing and operating automated data processing systems.

Within the last year the Office of Administration has initiated several management improvements that will facilitate the organizational functions of the Criminal Division: 1) a program to microfilm closed casefile indices (in excess of 1 million), Nazi war material case files and other work was completed; 2) during 1985, acquired 34 microcomputers for use in Division offices to satisfy immediate data base needs prior to full development and implementation of the caseload tracking system on the microcomputer. These microcomputers are being used as data input/retrieval terminals and enable litigation managers to access the JURIS automated legal research data base, to operate spreadsheet and small data base management programs using commercial software, and to permit electronic mail among managers; 3) implemented a new travel system based on charge cards and travelers checks to more safely and efficiently account for travel funds; 4) the installation of a microcomputer to process caseload management data to provide management with current information on the status of investigations and cases, employee workloads, and other inquiries; 5) completed a major office automation project to determine the Division's needs for an interactive computing system that would allow multipurpose terminals at individual work stations as opposed to the current system which is six different types of work stations; 6) developed a system for the microcomputer to assist in criminal investigations by tracking banking transactions; 7) completed a major computer system to record and track Division correspondence and report on a regular and timely basis the status of said correspondence; and 8) developed two separate computer systems to assist the Office of International Affairs in recording and monitoring extraditions and mutual assistance requests.

Office of International Affairs

The Office of International Affairs is responsible for formulating and supervising the execution of international criminal justice enforcement policies and procedures. The functions of the Office include: 1) participating in the negotiation of international agreements and treaties on subjects relating to criminal law enforcement, such as treaties on extradition, mutual assistance in criminal matters, and the transfer of prisoners; 2) representing the Division in executive branch policy planning sessions of issues of international criminal justice; 3) implementing and overseeing the implementation of, extradition, judicial assistance, and prisoner transfer treaties and agreements; 4) reviewing and litigating, or supervising the litigation of, requests for extradition by foreign countries before federal courts;

5) preparing requests for international extradition and obtaining evidence from foreign jurisdictions; 6) coordinating requests to and from foreign countries to obtain evidence in connection with criminal investigations and prosecutions in the United States and in foreign countries; 7) drafting legislation on subjects within the Office's areas of responsibility; and 8) developing Division policy on those aspects of federal criminal law enforcement that require extra-territorial involvement.

During 1985, the Office accomplished the following.

Treaty Negotiations. A mutual assistance treaty was implemented with Canada. Final negotiations were held for mutual assistance treaties with the Bahamas, Jamaica, Thailand, Panama, and the Federal Republic of Germany. The Thailand Treaty is particularly significant because it marks the first such treaty with that Southeast Asian country and because it is expected to provide an important tool for tracing laundered drug money. In addition, mutual assistance and extradition treaties between the United States, Ireland, and the United Kingdom were signed. As a result of the Irish Treaty, four American fugitives have been arrested for extradition to this country. The United Kingdom Treaty was notable for removing certain heinous crimes from the purview of the political offense exception.

International cooperation. The Office organized an Extradition Conference that was held in Rome. The representatives of the United States included senior Criminal Division officials, federal judges, and Assistant U.S. Attorneys. The Italian government was represented by prosecutors and investigating judges. The goal of the Conference was to resolve disputes over the application of the extradition treaty. One outcome of the Conference was an agreement to station a senior American attorney in Rome, on a trial basis, to assist in the large number of complex extradition and mutual assistance matters. Since then, there has been a higher degree of cooperation between the United States and Italy. The attorney stationed in Italy has also been called upon to give assistance in surrounding countries.

Coordinating and litigating international transactions. Four hundred eighty-nine extradition and 346 mutual assistance requests were received during 1985. Three hundred forty-one extradition cases were closed. The most notable of the closed cases include the following:

- Former auto maker John Z. DeLorean was indicted in a 15-count indictment charging racketeering, mail fraud, and tax evasion. The indictment alleges that DeLorean diverted millions of dollars, through complicated bank transactions with Dutch, Swiss, and U.S. banks, to his personal use. Numerous treaty requests to both the Netherlands and Switzerland produced records that were instrumental in gaining the in-

dictment. The Dutch have authorized use of their records to prove tax evasion charges; the Swiss have tentatively approved the same use.

- In a major narcotics/money laundering case, the Office arranged for extensive continuing cooperation between the United States and Swiss authorities, including lengthy consultations, formal depositions of witnesses in Switzerland, and exchanges of documents. The cooperation that has characterized this case has been truly mutual because the Swiss are prosecuting related cases in which the United States has given them assistance. In fact, the Swiss convicted three Swiss money launderers near the end of the year and further prosecutions are expected to follow.
- In the Northern District of Ohio the U.S. district court found an accused Nazi war criminal extraditable to Israel, and dismissed his petition for a writ of *habeas corpus*. The Sixth Circuit has reserved judgment. If the finding of extraditability is upheld, he will be the first war criminal ever extradited to Israel—a country that did not exist during the Second World War. The extradition order is based on a statute enacted after Israel's independence, in which Israel claims jurisdiction for crimes committed in Poland and upon people not its citizens.
- The U.S. District Court for the Central District of California found the former police chief of Mexico City extraditable to Mexico, and a *habeas corpus* decision is pending. The subject of this extradition effort is accused of fraud and corruption from which he obtained illegal profits that have been estimated at more than \$1 billion.

Office of Enforcement Operations

The Office of Enforcement Operations oversees the use of the most sensitive investigative tools at the Department's disposal, including electronic surveillance, hypnosis in the interrogation of witnesses, witness relocation, and the authorization of witness immunity. The Office also provides a wide range of litigation assistance and prosecutorial support to various components of the Division, the U.S. Attorneys, and other federal prosecutors. The Office supervises all aspects of the Witness Security Program for the Criminal Division and responds to congressional, White House, press, and public inquiries regarding the Witness Security Program. It processes applications for electronic surveillance under Chapter 119 of Title 18 of the U.S. Code, and oversees all electronic and consensual monitoring efforts being pursued within the federal justice system. The Office also prepares special analyses and evaluation reports relating to such activities.

Among its other functions, the Office prepares letters authorizing Division attorneys to conduct and attend grand jury sessions; responds to requests for authorization for Department personnel to testify at federal, state, and local civil and criminal proceedings; prepares histories of all legislation enacted by the Congress that affects the responsibilities of the Criminal Division; compiles, indexes, and maintains a file of all Division legal briefs and memoranda that involve policy matters or extensive legal research; coordinates, with other Division components, the preparation of the Criminal Division's contribution to the United States Attorneys' Manual; processes requests from the U.S. Attorneys for access to information filed with the Secretary of the Treasury under the Currency and Foreign Transactions Reporting Act; and prepares a monthly report of significant criminal cases and matters handled by Division components and the U.S. Attorneys.

During 1985, some 555 original and extension electronic surveillance authorizations were processed to approval, the highest number since the enactment of the wiretap statute and nearly 100 requests over the number approved in 1984. Ninety-five percent of these were in narcotics and organized crime cases. In addition, the Office completed action on 1,690 Freedom of Information Act and Privacy Act requests, revised Chapter 9 of the United States Attorneys' Manual so that it conformed with the Comprehensive Crime Control Act of 1984, and the Office assumed full responsibility for producing the Crime Control Act of 1984 Bulletin, publishing eight issues before the conclusion of the year.

Asset Forfeiture Office

The mission of the Asset Forfeiture Office is to reduce criminal activity by depriving criminals of the property they use to commit offenses and of the profits generated by their offenses. During this year, the federal government substantially increased its success in prosecuting and convicting leaders of organizations engaged in drug trafficking and other organized crime activities by relying to a greater extent on civil and criminal forfeiture of crime-related property. The Asset Forfeiture Office is responsible for supervising all federal forfeiture litigation whether civil or criminal. The Office is also the principal legal advisor on forfeiture matters to all federal agencies. In carrying out its supervisory role, the Asset Forfeiture Office develops guidelines and policies for federal prosecutors. As needed, the Office provides research assistance, sample briefs, and pleadings. When requested, the staff leads the forfeiture prosecution of complicated cases. Also, on a temporary basis, it assists the various litigating officers in decreasing unmanageable forfeiture case backlogs.

An additional responsibility of the Office pertains to the collection of criminal fines, criminal penalties, and appearance bond forfeitures, within the jurisdiction of the Criminal Division. In this regard, the Office monitors the criminal collection activity of the various federal prosecuting offices and provides advice and support to federal prosecutors.

The Office also decides petitions for remission or mitigation of judicial forfeitures and, during 1985, the Office handled some 350 petitions involving large sums of cash, various kinds of personal property and realty.

The Office educates prosecutors and agents of various federal and state agencies by providing speakers and lecturers at forfeiture and law enforcement conferences and training seminars, and by responding to numerous inquiries.

Significant cases in which the Office was involved in 1985 are:

- A complaint filed against approximately \$4 million believed to have been paid by the Quintero cartel to Moises Calvo, a retired Mexican police officer, as protection money. As part of the Quintero investigation, a number of related "cartels" have been discovered.
- The Office is leading the civil forfeiture prosecution of property belonging to Larry Renick and various members of his west Texas organization. Renick is charged with operating a continuing criminal enterprise that included a "speed" lab.
- A number of novel or complicated civil forfeiture cases arising out of Operation Greenback in Puerto Rico are being handled by the Office.

Advice and assistance was given in the Herrera investigation in the Northern District of Illinois where civil forfeiture was sought against 47 pieces of realty allegedly used to facilitate narcotics trafficking. Assistance was furnished to U.S. Attorneys in the appellate area through the preparation of a number of briefs including one where a number of significant issues were presented including whether the cash proceeds of racketeering must be traced to specific assets owned by the defendant at the time of the forfeiture verdict; whether a district court has authority to order post-forfeiture financial disclosures from a convicted defendant, and, if so, whether such an order would violate a defendant's Fifth Amendment rights; and whether a group of corporations may comprise the enterprise under the RICO statute.

As a result of the Comprehensive Crime Control Act of 1984, the Office developed new policies and guidelines. Of particular note are the guidelines recently established for the sharing of forfeiture property with state and local law enforcement agencies that participated directly in the seizure or forfeiture. As part of these procedures, the Office has been the clearinghouse for judicial sharing requests. The Asset

Forfeiture Fund was activated. Since then the Office has received requests for a share in property worth approximately \$15 million. The Office has handled the disposition of requests totaling \$2,685,019.

To accelerate the collection of debts and improve criminal fine collections, the Office has been assisting U.S. Attorneys' offices with complex criminal fine collection cases. In one case the Office assisted in a criminal contempt prosecution of an attorney charged with defrauding the court and keeping the government from collecting a \$30,000 fine. In another case, the Office assisted with discovery directed toward collection of a \$100,000 fine. The Office maintains a system of internal controls for the legal processing of debts generated by the Criminal Division. Since the enactment of the Criminal Fine Enforcement Act of 1984, the Criminal Collection Unit has been providing legal analysis and determining departmental policy relating to that new legislation.

CITATIONS

- (1) *United States v. Aiello*, No. 84-321 (E.D. Pa. 1984).
- (2) *United States v. First National Bank of Boston*, No. 85-52 (D. Mass. 1985).
- (3) *United States v. Russotti*, No. 82-156 (W.D. N.Y. 1984).
- (4) *United States v. Wolfson*, 83-976 (N.D. Ill. 1985).
- (5) *United States v. Brodock, et al.*, No. CR 84-12 (N.D. N.Y. 1985).

- (6) *United States v. Stella*, No. 84-201 (N.D. Ohio 1985).
- (7) *United States v. Delker*, No. 84-441 (E.D. Pa. 1985).
- (8) *United States v. Rahman*, No. CR LV 83-155-HDM (D. Nev.).
- (9) *United States v. Garmany*, No. CR-84-090-33 (D. Ariz., 1985).
- (10) *United States v. Behar*, No. 85-83-CR-Kehoe (S.D. Fla. 1985); *United States v. Cure*, No. 85-82-CR-Nesbitt (S.D. Fla. 1985); *United States v. Gracia*, No. 85-80-CR-Nesbitt (S.D. Fla.).
- (11) *United States v. Miros*, No. 84-76-T-8 (M.D. Fla. 1985).
- (12) *United States v. Hansen*, D.C. Cir., No. 84-5377.
- (13) *United States v. Lavelle*, D.C. Cir., No. 84-5060.
- (14) *United States v. Petro*, No. 84-67-A-DO (N.D. Ohio).
- (15) *United States v. Clairborne*, 9th Cir., No. 84-1294.
- (16) *United States v. Nixon*, S.D. Miss., No. 85-0012(L).
- (17) *United States v. Chicago Board of Trade Clearing Corp, et al.*, N.D. Ill., 84-CR-689.
- (18) *United States v. Gorman*, N.D. Ohio, No. 84-752-00.
- (19) *United States v. John Walker*, H85-0309, (D. of Md).
- (20) *United States v. Michael Walker*, H85-0309 (D. of Md).
- (21) *United States v. Arthur Walker*, 85-92-N, (E.D. Va.).
- (22) *United States v. Jerry Whitworth*, CRNo85-0552-JPV, (N.D. Ca.).
- (23) *United States v. Cavanagh*, No. C.R. 84-1183 [A] WMB, (C.D. Ca.).
- (24) *United States v. Ortiz-Ortiz*, No. 84-229 (D. P.R. 1985).
- (25) *United States v. Tafoya*, 757 F. 2d 1522 (1985).
- (26) *United States v. Daewoo Industrial Co., et al.*, No. 84-563 (C.D. Ca. 1985).
- (27) *United States v. C. Itoh*, No. 85-156 (S.D. Tex. 1985).
- (28) *United States v. Risken*, No. 84-44 (S.D. Iowa 1985).
- (29) *United States v. Elizabeth Mary Cornelius*, (S.D. Miss. 1985).
- (30) *Gordon Hirabayashi v. United States*, No. C83-122V (W.D. Wash. 1985).

Executive Office for United States Attorneys

William P. Tyson
Director

Under the supervision of the Deputy Attorney General, the Executive Office for U.S. Attorneys provides general executive assistance and supervision to the 94 offices of the U.S. Attorneys. The Executive Office for U.S. Attorneys also coordinates and directs the relationship of other organizational units of the Department and other federal agencies with the U.S. Attorneys.

Office of Administration and Review

Last year the Attorney General approved a reorganization of the Executive Office for U.S. Attorneys which consolidated a number of functions into a single newly-created Office of Administration and Review. Among the responsibilities of the new Office are the exercise of personnel management authority within the Executive Office for U.S. Attorneys and the 94 U.S. Attorneys' offices. This personnel authority includes all phases of personnel operations such as recruiting, selection, classification, training, adverse action, and employee relations. The acquisition and renovation of space as well as procurement of all equipment, furniture, supplies, and materials is another function of this Office. Also, this Office is responsible for formulating and executing a budget for all 94 offices. The formulation process includes preparation of budget amendments, supplementals, reimbursements, and transfers. A new development in the budget area was the recent initiation of a pilot program to place four U.S. Attorneys' offices on individual budget operating plans.

Finally, the reorganization last year created the Evaluation and Review Staff (formerly Field Activities) within the Office of Administration and Review. The Evaluation and Review Staff conducts onsite reviews of the U.S. Attorneys' offices, with an eye toward improving the legal, debt collection, and administrative operations of the various offices. The program is designed to: identify improvements to be made in the utilization of professional personnel, debt collection and case management systems; coordinate and evaluate implementation of the Attorney General's priority programs and other management-related functions; and, reduce the operational cost of the U.S. Attorneys' offices. The small staff, which is located in Washington, is supplemented by the volunteer services of supervisory and senior Assistant U.S. Attorneys, Administrative Officers, and debt collection personnel from around the country. In the review cycle ending

September 30, 1985, 29 legal, six administrative, and 38 debt collection reviews were conducted.

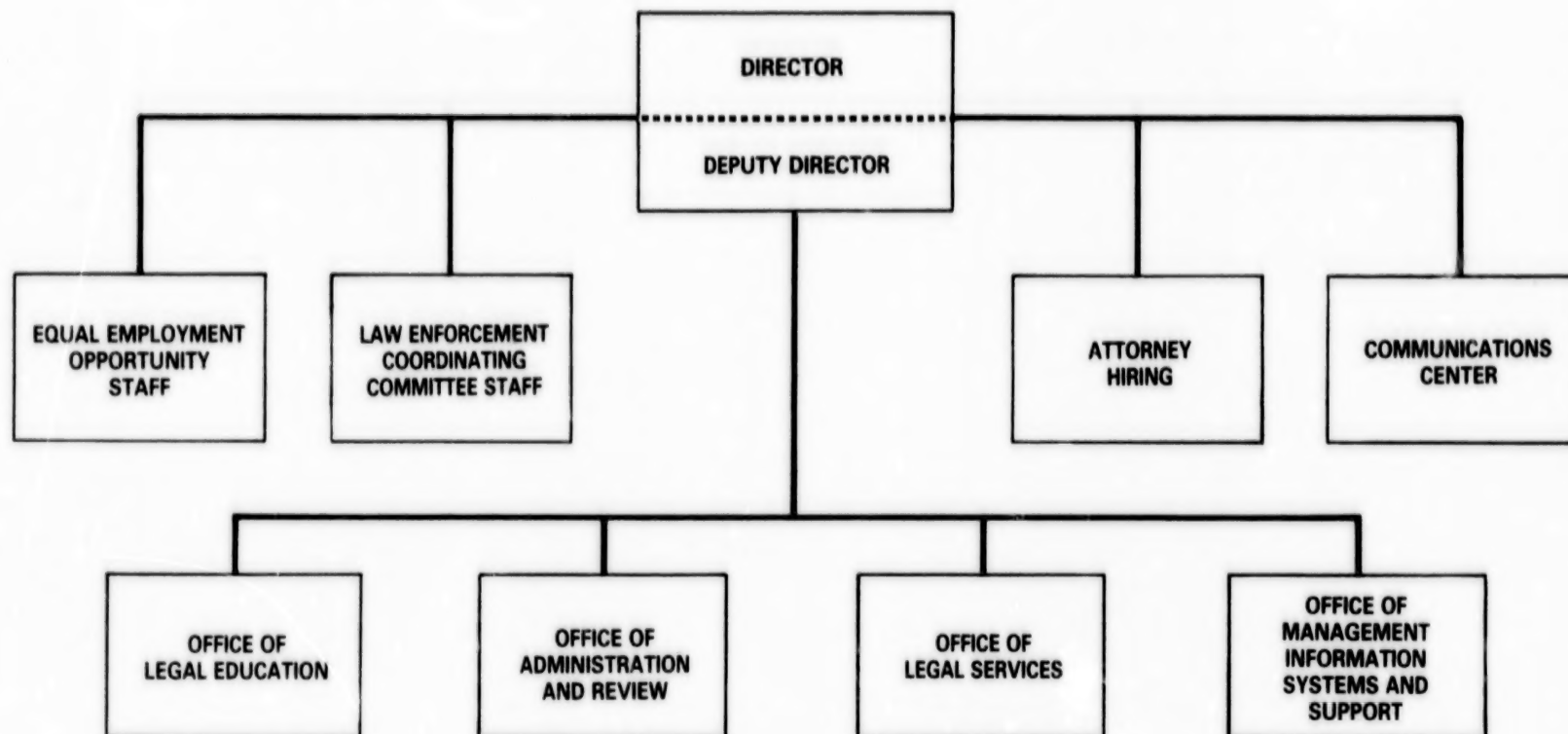
Office of Management Information Systems and Support

The major responsibilities of the Office of Management Information Systems and Support are: 1) to gather and fill requests for workload information from U.S. Attorneys' offices in order to ensure efficient management of resources and promotion of Department objectives, 2) to provide the U.S. Attorneys with automated information systems, and with services necessary to effectively use this technology, and 3) to oversee debt collection activities carried out by U.S. Attorneys' offices.

During the past year, a major effort of the Office of Management Information Systems and Support has continued to be the implementation of the Prosecutor's Management Information System (PROMIS) in the largest U.S. Attorneys' offices.

The original plan was to install the computer version of PROMIS in the 22 largest U.S. Attorneys' offices, and a word processing version in the remaining 72 offices. However, the recent enactment of the Comprehensive Crime Control Act of 1984, the Criminal Fine Enforcement Act of 1984, and the increase in commercial litigation from the Department of Education and the Veterans Administration has increased the workload in some medium sized offices to the extent that they also need the PROMIS system. Thus far, PROMIS has been installed in 23 U.S. Attorneys' offices. Work is already underway in an additional seven sites. The government was able to acquire the minicomputers for these seven sites by exercising an option in the original hardware contract with the Prime Computer Company. There is presently a competitive procurement effort underway to acquire compatible hardware for an additional 15 offices, and it is anticipated that they will be acquired in early October 1985. In total, 45 U.S. Attorneys' offices will be equipped with the computer version of PROMIS.

In February 1984, the Executive Office assumed responsibilities for developing and implementing the word processor version of PROMIS, called the United States Attorney's Case Tracking System (USACTS) in the 48 smaller U.S. Attorneys' offices. USACTS has been fully tested and

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is now successfully installed in 11 U.S. Attorneys' offices. Using existing personnel and term employees, the Office of Management Information Systems and Support is now implementing USACTS at a rate of two offices per month. This schedule matches that contemplated under the original implementation plan.

Both PROMIS and USACTS not only greatly facilitate the management of the individual U.S. Attorneys' offices, but these systems also further the above-mentioned Office of Management Information Systems and Support goals of gathering and filling requests for workload information, and overseeing debt collection activities carried out by U.S. Attorneys' offices.

The Office of Management Information Systems and Support is made up of three branches: the Information Systems Staff, the Management Services Staff, and the Debt Collections Staff. The following is a description of the work and achievements of each branch.

Information Systems Staff

The Field Systems Support Section of the Information Systems Staff has been responsible for the installation of Prime computer equipment—the hardware for the PROMIS software. They also install and maintain Prime and PROMIS software, and train system managers in PROMIS computer based districts. This Staff also provides resources and advice to repair programming errors for all PROMIS sites (i.e., it "maintains" the system), and it performs PROMIS software enhancements and maintenance.

The Word Processing Applications Section, working with the word processing vendor (Lanier Business Corporation), developed the USACTS system. USACTS is also maintained and supported by the Word Processing Applications Section.

The Central Systems Support Section of the Office of Management Information Systems and Support has for many years maintained a centralized automated system for developing caseload statistics. This system is known as the Docket and Reporting System (D&R), and it serves a number of important functions: 1) it is used to fulfill requests for statistical information from the Office of Management and Budget, Congress, other executive branch organizations, and the public, and 2) to produce management reports for use within the Department of Justice. It does not, however, support the management of the U.S. Attorneys' offices, because the time required to mail data to Washington, process it, and return reports means that timely information is not available to the individual offices for local management purposes. (Hence the development of the automated information systems.) The Central Systems staff is also responsible for D&R to PROMIS and PROMIS to D&R data base conversions.

Management Services Staff

This Staff is responsible for the actual user training on PROMIS. Once the Prime hardware is in place and functional, and the system manager has been trained on PROMIS, the implementation staff attends the PROMIS site and trains the staff of the U.S. Attorney's office. The implementation staff also provides continuing user assistance after implementation, and develops new PROMIS codes in response to changes in the law.

The USACTS staff coordinates USACTS implementation. They then attend the U.S. Attorney's office and train the staff on USACTS. The system is also maintained by the USACTS staff, and they work with the U.S. Attorney and his or her staff to ensure that the system is effectively used for management of the office.

The installation of modern word processing equipment in every U.S. Attorney's office was a planned by-product of the project to implement USACTS in all smaller districts. The Word Processing Management Section is responsible for the allocation of equipment to offices and the effective utilization of that equipment. The largest 23 districts currently have word processing equipment from several different vendors, and several are in the process of upgrading their installations by acquiring additional components for existing systems or competitively procuring new systems.

Lanier Business Corporation shared logic word processors were installed in 92 cities in 52 smaller districts as of January 1985. With the installation of Lanier systems in 19 more locations before the end of Fiscal Year 1985, every U.S. Attorney's office will have word processing equipment.

Until the installation of the Lanier Business Corporation shared logic systems, many small offices had no automated word processing capabilities. As the attorneys become more familiar with the capabilities of word processing equipment, the perceived need for more work stations has increased. Requests for additional word processing equipment are handled by the Word Processing Management Section, and such requests continually exceed the funds available to acquire such equipment.

The Budget and Procurement Section is responsible for the procurement of word processing equipment and automated data processing equipment for U.S. Attorneys' offices. They also prepare the budget for the Office of Management Information Systems and Support.

Debt Collections Staff

The Debt Collections Staff provides direction of the U.S. Attorneys in the conduct of debt collection activities. The Staff develops and implements improved debt collection policies and procedures, supervises and provides for training of collection personnel, monitors and evaluates periodic and special collections reports, and recommends the allocation of permanent and temporary personnel. It also coordinates col-

lection activities with client agencies and develops proposed collection policy changes.

During the past year, a major task of the Debt Collections Staff has been to assist U.S. Attorneys' offices collection personnel with their new responsibilities under the Comprehensive Crime Control and Criminal Fine Enforcement Acts of 1984. In March 1985, the U.S. Attorneys' offices were given the task of collecting and accounting for criminal fines and assessments. This responsibility was transferred from the U.S. courts without any additional resources. This new responsibility will likely have a large impact on future budgetary requirements of U.S. Attorneys' offices.

- **Criminal Fine Demand Letter**—The Comprehensive Crime Control Act of 1984 required U.S. Attorneys to send demand letters to debtors with outstanding criminal fines of \$100 or more, demanding immediate payment or entry into a plan effecting payment. Eleven thousand two hundred and seventy-six letters were sent and 1,285 (11.4 percent) debtors responded by April 15, 1985. Payments totaling \$1,338,008 or \$1,041.25 per debtor was received. Five districts collected approximately \$5.35 for each dollar spent on the project. NOTE: This project was very cost-effective. But it must be remembered that it had never been done as a project before. As a brand new approach it should have weeded out the easily collectible unpaid criminal fine dollars; future projects would not necessarily produce as favorable a return on investment. The harder to collect dollars are remaining.
- **Direct Deposit System**—As of August 1985, a total of \$299 million in cash had been collected through the Direct Deposit System. The figure is up from \$193 million in Fiscal Year 1984. Since March of 1985, the source for cash collection data is the Department of Justice's Direct Deposit (Lockbox) System, which was developed by the Debt Collections Staff in conjunction with the Justice Management Division.

The following chart shows the amount of impositions and cash collected in Fiscal Year 1985 as of August.

	PROMIS (in dollars)	D&R (in dollars)
Criminal Impositions FY-1985		
1st Quarter	8.5 million	9.2 million
2nd Quarter	12.8 million	8 million
3rd Quarter (Aug. 1985)	14.6 million	11.7 million

Civil Impositions FY-1985	PROMIS (in dollars)	D&R (in dollars)
1st Quarter	250 million	80 million
2nd Quarter	121 million	97 million
3rd Quarter (Aug. 1985)	81 million	67 million

Criminal Cash Collected FY-1985

1st Quarter	6.4 million	4.6 million
2nd Quarter	11.6 million	5.2 million
3rd Quarter (Aug. 1985)	9.3 million	3.6 million

Civil Cash Collected FY-1985

1st Quarter	122 million	20 million
2nd Quarter	35 million	24 million
3rd Quarter (Aug. 1985)	16 million	15 million

- **Student Loan Special Project**—The Departments of Education and Justice began a special project in December of 1984. The goal was to refer and process to judgment 15,000 defaulted student loan claims within 90 days. These claims had been handled by the Department of Education and private contractors prior to referral for litigation. After normal initial start-up problems for a project of this magnitude, the Department of Education began referring claims on a "production line" basis in January of 1985. By the end of May 1985, 13,590 claims amounting to \$38,459,568 had been referred in Calendar Year 1985. These claims averaged \$2,829.99 per referral.
- **Training for Collection Personnel**—Two basic debt collection training conferences were held in Fiscal Year 1985 for U.S. Attorney personnel. The first was in April, and the second in July. A third such conference is planned for February 1986. A more advanced creditors rights conference will be held in November of 1985 to benefit Assistant U.S. Attorneys and senior collections staff.

Office of Legal Education

The Attorney General's Advocacy Institute and the Legal Education Institute offered 157 courses and seminars for attorneys in the departments and agencies of the executive branch. This was an increase over last year's 127 courses and

seminars and a significant increase over the 1982-1983 period of 77 offerings. Standard courses are continually being evaluated by the Office of Legal Education staff and participants and revised as appropriate. Yet these courses reflect only part of Office of Legal Education activities. New seminars continue to be developed, increasing the range of offerings by the Legal Education Institute and the Attorney General's Advocacy Institute, while many successful programs are repeated as needed.

These courses and seminars qualified for 1,037.92 hours of continuing legal education credits which could be used in mandatory continuing legal education states. More than 8,500 attorneys and other legal personnel attended those courses.

Attorney General's Advocacy Institute

This year 13 seminars were offered by the Attorney General's Advocacy Institute, six of which were developed in entirely new subject areas. These new courses were offered as follows:

- Election Fraud (San Antonio, Texas, September 18-20, 1984); Immigration Law (Denver, Colorado, April 9-11); Arson (Miami, Florida, February 26-28); and Money Laundering (Denver, Colorado, March 19-21).
- Terrorism has become such an important topic within the Department of Justice that an educational program was offered to approximately 40 attorneys on May 22-23, 1985, in the Department's Briefing Center. Drug Diversion and Crop Eradication issues were addressed in San Francisco, California, from June 4-6, 1985.

In addition to these six newly developed training programs, the Attorney General's Advocacy Institute also sponsored the following eight conferences which had been offered previously: Attorney Managers Conference, Medical Malpractice, Asset Forfeiture, Obscenity and Child Pornography, Economic Crime Conference (two), Fraud and Financial Crimes, and Computer Crime.

The Attorney General's Advocacy Institute has been working closely with the Federal Bureau of Investigation on a Computer Crime Seminar to be offered at Quantico every six months. This program is designed to familiarize approximately 12 prosecutors with how computer offenses occur and what investigative and prosecutive tools are available to prosecute these offenses. The course, offered for one week, brings a Department of Justice attorney together with a Federal Bureau of Investigation Agent from the same judicial district, in an effort to promote team investigations.

In addition to the specialized seminars listed above, the Attorney General's Advocacy Institute conducted the standard Basic Criminal (six times), Advanced Criminal (two times), Civil (six times) and Appellate Advocacy (four times) Courses as indicated. As a result of these courses, the At-

torney General's Advocacy Institute courtrooms were in use for over 30 weeks during the year. With the Legal Education Institute's offerings, the facilities were in use approximately 90 percent of the time.

Legal Education Institute

During the Fiscal Year 1985, 6,497 federal attorneys and other legal personnel representing all executive branch departments and agencies, as well as 52 of the 53 independent government establishments, attended Legal Education Institute seminars, at no cost to these agencies.

Thirty-six new courses were introduced into the Legal Education Institute curriculum in Fiscal Year 1985 and, overall, the Legal Education Institute conducted approximately 90 separate live seminars and 45 video presentations.

The addition of a substantial number of new courses this last year was the continuation of the Legal Education Institute building its basic curriculum. The direction for curriculum development was first set in 1981 by a professional Survey and Analysis of Training Needs of Federal Attorneys, and since September 1984, the Legal Education Institute has introduced 36 new courses in an effort to meet the majority of the training needs indicated in the survey. Many of these new courses are being altered for improvement, as well as the other courses which are constantly reviewed. Additionally, workshops have been added, bigger pools of faculty have been recruited, and course materials have been updated. This year, the Legal Education Institute presented the greatest number of courses (91) since its beginning at the Department of Justice.

The number of regional video showings doubled with varying numbers of attendees. Courses such as Basic Contracts, Basic Bankruptcy and Basic Negotiations have proven successful and continue to draw large audience response. Advanced courses are being developed to provide complete coverage of these same subjects.

This last year the Legal Education Institute was requested to put on interagency training by lead offices in the Office of Management and Budget and the Civil Division of the Department of Justice. In March, the Legal Education Institute put on a course in Telecommunications Law in coordination with the Office of Management and Budget. In June, the Legal Education Institute put on a course in Toxic Torts in conjunction with the Torts Branch of the Civil Division. These courses are so specialized that they may or may not be repeated, but they display the Office of Legal Education's capacity to meet, at little or no extra cost, interagency training needs that arise when an area of federal law suddenly expands due to increased litigation activity or changes in the law. Both of these seminars provided a forum not just for legal training, but for government leaders to make clear to a wide audience the policies behind the federal litigation thrust.

Law Enforcement Coordinating Committee

The Department of Justice has reaffirmed and broadened its commitment to the Law Enforcement Coordinating Committee program. On July 12, 1985, the Attorney General issued a memorandum to all U.S. Attorneys stressing his support for the Law Enforcement Coordinating Committee effort. The Department also authorized the hiring of Law Enforcement Coordinating Committee/Victim-Witness Coordinators in 47 U.S. Attorneys' offices, and additional staff were added to the Executive Office for management of the Law Enforcement Coordinating Committee program. Over 100 full Law Enforcement Coordinating Committee meetings and several hundred Law Enforcement Coordinating Committee subcommittee meetings were held during the year, which included such topics as child sexual exploitation, white-collar crime, drug enforcement and education, motorcycle gangs, and the Comprehensive Crime Control Act of 1984.

Attorney General's Advisory Committee of U.S. Attorneys

The Advisory Committee, established in 1973 and formalized in 1976 by order of the Attorney General, makes recommendations with respect to: developing Department policies and procedures; improving management, particularly with respect to the relationships between the Department and the U.S. Attorneys; operating the Law Enforcement Coordinating Committees; cooperating with state attorneys general and other state and local offices to improve the quality of justice in the United States; promoting greater consistency in the application of legal standards throughout the nation and at various levels of government; and aiding the Attorney General, Deputy Attorney General, and Associate Attorney General in formulating new programs.

The Advisory Committee is made up of 15 representative U.S. Attorneys who serve at the pleasure of the Attorney General. It has standing subcommittees that work to improve Department of Justice action in particular areas. The present standing subcommittees are Tax, Correctional Institutions, Debt Collection, Investigative Agencies, Legislation and Court Rules, and Executive Working Group Representation. Temporary subcommittees are established periodically for limited purposes such as management standards, office manuals, expedition of tax case review, declination guidelines, border problems, and Indian affairs.

The Committee meets bimonthly and is available to the Attorney General, the Deputy Attorney General, the Associate Attorney General, and the Assistant Attorneys General in charge of the various divisions of the Department.

Headquarters officials of all investigative agencies, such as the Federal Bureau of Investigation and Drug Enforcement Administration, are also invited periodically to discuss with the Committee areas of mutual concern.

The U.S. Attorneys

Within each of the 94 federal districts in the 50 states, Guam, the Northern Mariana Islands, Puerto Rico, and the Virgin Islands, the U.S. Attorney is the chief law enforcement representative of the Attorney General—enforcing federal criminal law and handling most of the civil litigation in which the United States is involved.

U.S. Attorneys are appointed for four-year terms by the President, with advice and consent of the Senate, and serve at the pleasure of the President. Assistant U.S. Attorneys are recommended by the U.S. Attorneys and appointed by the Attorney General.

During 1985, U.S. Attorneys carried out their responsibilities with the support of 2,439 U.S. Attorneys and Assistant U.S. Attorneys and 2,852 non-attorney personnel. Their offices ranged in strength from three Assistant U.S. Attorneys to 201 Assistants. The annual budget for U.S. Attorneys' offices totaled more than \$306 million, which includes funds for the Organized Crime Drug Enforcement Task Forces.

During the year, approximately 90,740 criminal referrals were opened in U.S. Attorneys' offices, 17,094 grand jury proceedings were conducted, 29,689 criminal cases were filed, and 26,633 criminal cases were terminated. Of the approximately 40,410 defendants whose cases were terminated, 3,599 were dismissed, 24,792 entered guilty pleas, and 4,075 were tried, 4,054 of whom were found guilty after trial.

During this same period, approximately 103,877 civil cases were filed, 87,963 civil cases were terminated, and 162,554 civil cases were pending at the end of the year. This pending civil caseload represents a potential liability of over \$33.3 billion against the United States and potential recovery of approximately \$2.9 billion for the government. Over 81.4 percent of the civil judgments entered in the cases terminated were in favor of the United States.

Drug Trafficking Prosecutions

Pennsylvania. On April 19, 1985, Dean K. Felton, age 33, of Pitcarin, Pennsylvania, was the first defendant convicted by a jury in the Western District of Pennsylvania of engaging in a continuing criminal enterprise. At trial, various witnesses testified to Felton's widespread marijuana distribution organization. His sources for marijuana included smugglers based in the Atlanta, Georgia, area who flew plane loads of marijuana directly into Georgia from Colombia, South America. Felton also obtained marijuana from sources in Florida and Nebraska. Evidence introduced

at the trial indicated that Felton had been engaged in the business of systematically buying and selling marijuana for at least three years prior to the time agents of the Pennsylvania Bureau of Narcotics seized seven tons of marijuana from a warehouse rented by Felton in Pittsburgh, Pennsylvania.

Felton was sentenced by Judge Gustave Diamond to 10 years imprisonment with no parole. (The continuing criminal enterprise statute provides that any person who engages in a continuing criminal enterprise shall be sentenced to a mandatory minimum sentence of 10 years imprisonment.) The jury also found that three pieces of real estate located in Indiana, Pennsylvania, were acquired with Felton's profits from the continuing criminal enterprise; and, therefore, forfeitable to the government. The investigation was conducted by the Drug Enforcement Administration in conjunction with the Pennsylvania Bureau of Narcotic Investigation and Drug Control.

Convicted along with Felton were Anthony Serraro of Venice, Florida; Richard Cox of Melbourne, Florida; and Nancy E. Bruce of Pittsburgh, Pennsylvania. Serraro and Cox were each convicted of one count of conspiring to distribute marijuana and one count of using the telephone to facilitate the conspiracy.

Ohio. Michael J. Sumpter, alias "Don Corleone," was convicted of operating a continuing criminal enterprise from 1982-1985 and 20 other substantive drug counts. The judgment included the forfeiture of approximately \$1 million worth of assets, including a plush home and luxury automobiles. Sumpter's operation included sales of one-eighth ounce quantities of cocaine from an apartment house and half gram, "\$50 pieces," out of a deli located in the community. Larger quantities of one ounce or more were sold by Sumpter's lieutenants to select customers. A 12-day period of sales from the deli alone produced approximately \$184,000. Evidence presented at trial showed that Sumpter received approximately 150 kilos of high grade cocaine worth approximately \$12 million for distribution in a six-month period between August 1984 through February 1985.

The case was complicated by the fact that Sumpter was a Federal Bureau of Investigation informant during part of the indictment period. The case was prosecuted by the Organized Crime Drug Enforcement Task Force for the Northern District of Ohio. The investigation was conducted by the Federal Bureau of Investigation and Internal Revenue Service with assistance from U.S. Customs and the Cleveland Narcotics Unit. All 11 other defendants indicted together with Sumpter pled guilty to conspiracy to distribute, and certain defendants also pled to tax violations.

South Carolina. A cooperative effort by the Drug Enforcement Administration, and the city and county Police Departments of Charleston, South Carolina, and the South Carolina State Law Enforcement Division resulted in the

conviction of six defendants for operating a heroin distribution ring for approximately 15 years.

The "kingpin" of the operation, Henry Hamilton, Jr., age 41, of Charleston was convicted of operating a continuing criminal enterprise and was sentenced to life imprisonment without parole on September 5, 1985. This was the first life without parole sentence imposed in South Carolina under the continuing criminal enterprise statute.

Hamilton employed distributors, each of whom was expected to service 50 customers per day. Testimony showed that Hamilton earned as much as \$20,000 per week in illegal profits from heroin sales. Also convicted were Hamilton's wife, his mother, and several lieutenants and distributors, and each was sentenced to various terms of imprisonment for their participation. A court-authorized wire interception used during the investigation resulted in over 2,000 intercepted telephone calls. Approximately \$400,000 of personal and real property (including a liquor store and cab company) were found subject to forfeiture in the jury's verdict.

Texas. On July 18, 1984, a 24-count indictment was returned in Houston, Texas, charging John Wayne McCormack and eight other defendants with participating in a conspiracy to possess with intent to distribute methamphetamine and marijuana. McCormack, the former national vice president of the Bandidos Motorcycle Gang was also charged with conducting a continuing criminal enterprise, possession of 59 firearms by a felon, multiple telephone counts, and additional drug-related charges.

The indictment was the product of a 13-month investigation conducted by the Federal Bureau of Investigation, Drug Enforcement Administration, Internal Revenue Service, and the Bureau of Alcohol, Tobacco, and Firearms. Substantial contributions were also made by the Harris County Sheriff's office and the Houston Police Department. Much of the evidence was acquired during 90 days of court-authorized wire interceptions.

On July 22, 1985, John Wayne McCormack entered a plea of guilty to Count One of the indictment, which charged him with conducting a continuing criminal enterprise. He was sentenced that day to 10 years custody of the Attorney General, and the criminal enterprise, to wit: \$22,000 in U.S. currency, 59 firearms (valued in excess of \$10,000), knives, and drug paraphernalia.

In addition to Mr. McCormack's guilty plea, six other defendants entered guilty pleas to conspiracy to possess with intent to distribute methamphetamine. One defendant was found guilty of seven drug counts in a jury trial, and charges against the remaining defendant were dismissed.

Nevada. On June 28, Najeeb Ur Rahman was convicted by a jury of 18 counts including conducting a continuing criminal enterprise involving a massive \$42 million heroin ring that smuggled heroin from Pakistan. The jury also

found subject to forfeiture one-quarter of Rahman's home valued at \$200,000; two empty lots valued at \$64,000; a 7-Eleven store; and a 1983 Cadillac. Rahman, a travel agent, and other defendants were indicted a year ago. Court-authorized wire interceptions recorded conversations by an undercover agent to a Rahman associate which were offered in evidence. The conversations involved the distribution in New York City of three ½ kilograms of heroin in March 1984 at Rahman's direction and one kilogram of heroin in Las Vegas in June 1984. Rahman directed the delivery of heroin smuggled into the United States from Pakistan to distributors in several U.S. cities. One of Rahman's distributors, George Murphy, was sentenced earlier to 12 years and fined \$40,000. Another associate, A. B. Hassan, pled guilty and received a 12-year sentence. On August 30, 1985, Rahman was sentenced on the continuing criminal enterprise count to 40 years imprisonment, given a \$50,000 fine, and the above-listed property was forfeited. Rahman was sentenced to the maximum term for the remaining nine counts of the indictment.

California. A joint federal and local task force operation of the Federal Bureau of Investigation, Internal Revenue Service, and Oakland Police Department which began in 1981, resulted in the conviction in the Northern District of California of the leader and five top aides of "The Mob," a gang that controlled a multimillion dollar heroin distribution network operating out of a city housing project since 1976. The Mob, distributing Mexican brown heroin through Los Angeles, Berkeley, Palo Alto, Sacramento, and Oakland, California, hired children and teenagers as lookouts and to assist in the heroin distribution. Convictions on federal drug distribution, conspiracy and racketeering charges, brought maximum sentences of life imprisonment without possibility of parole for drug "kingpin" Mitchell, and 12 to 15 years each for the five aides. A second mob leader, pleading guilty to federal drug charges for possession of two pounds of heroin and tax evasion, received a sentence of 15 years imprisonment and 15 years parole. The sentences were imposed under the special dangerous drug offenders law. Also, one of the defendant's houses was forfeited to the federal government because it was used to facilitate narcotics traffic.

Maryland. From 1983 through early 1985, the Mid-Atlantic Drug Task Force conducted an investigation into a Phencyclidine (PCP) manufacturing and distribution conspiracy centered in Anne Arundel County. The case represented a joint investigation with the Drug Enforcement Administration, the Internal Revenue Service, and the Anne Arundel County Police Department. The lead defendant, George Sine, pled guilty to conducting a continuing criminal enterprise and one count of tax evasion. He was sentenced to 10 years without possibility of parole, and forfeited approximately \$150,000 worth of assets. Seven other members of the conspiracy pled guilty, and an eighth was convicted after

trial. The case could not have been successfully prosecuted without access to confidential sources of the Anne Arundel County Police and the Financial Investigation by the Internal Revenue Service. Subsequent to the arrests of the defendants, the availability of PCP in Anne Arundel County was noticeably decreased.

Alabama. John Santo Hernandez, a former city Commissioner and building contractor of Key West, Florida, was convicted on June 20, 1985, of conspiracy to distribute 30,000 pounds of marijuana, conspiracy to import 30,000 pounds of marijuana, two counts of utilization of a communication facility to facilitate a conspiracy to distribute marijuana, and travel in interstate commerce with intent to commit a conspiracy to possess marijuana with intent to distribute.

The charges arose from the importation into Baldwin County, Alabama, of approximately 30,000 pounds of marijuana during December 1979 aboard the shrimp boat "Crimson Tide." Hernandez was sentenced to 12 years and a \$30,000 fine. Hernandez had previously been acquitted in February 1983, of charges arising from the importation of approximately 7,000 pounds of marijuana into Baldwin County, Alabama, aboard the vessel "Ricky G."

New Hampshire. In April 1985, Ronald Paradis, and Norman and Christine Beliveau were convicted of two counts of possession of cocaine with intent to distribute and a related conspiracy. The convictions resulted from an undercover investigation by the Drug Enforcement Administration during which cocaine buys involving more than \$20,000 were made from the group. Paradis was the head of a major organization which was capable of selling multikilo quantities of cocaine each week. Norman Beliveau was also convicted of intimidating a government informant after being released on bail. Paradis received a 15-year sentence of incarceration. Norman Beliveau was sentenced to seven years on the drug-related charges and a consecutive four years for the intimidation charge. Mrs. Beliveau was sentenced to two years imprisonment.

New York. An Eastern District of New York case involved the successful prosecution of five members of an organized crime family that operated a massive narcotics distribution organization. The patriarch of the family, Joseph Fama, Sr., pled guilty to managing a continuing criminal enterprise and was sentenced to a 20-year term of imprisonment. The remaining members of the Fama family were convicted of various narcotics offenses following a 2½-week trial, and were sentenced to prison terms ranging from five to 12 years. The significance of the Fama narcotics distribution organization is best measured by noting the results of a search of the Fama residence in Brooklyn, New York, which yielded the following: \$3.3 million in cash, the largest cash seizure ever made in the New York area as a result of a narcotics investigation; 10 pounds of heroin having a retail value of approx-

imately \$6.6 million; eight pounds of cocaine having a street value of approximately \$880,000; 100 pounds of marijuana; 28 handguns; and substantial amounts of narcotics paraphernalia and records. The U.S. Attorney's office is currently litigating the forfeiture of the cash as well as other proceeds from the Fama organization's narcotics activities, which includes jewelry, automobiles, electronics equipment, and art objects.

Michigan. A two-year international and multiagency investigation in Pakistan and the United States resulted in the indictment of 13 individuals for a continuing criminal enterprise and conspiracy to distribute heroin. More than seven kilograms of high quality heroin were seized during the investigation. The group is believed to have been a substantial source of supply for the heroin market in the Detroit metropolitan area. All individuals apprehended have been convicted and sentenced to prison terms. Smith was sentenced to 30 years, 15 of which is without parole, plus a \$75,000 committed fine.

Maine. The Drug Enforcement Administration and the Maine State Police seized a shipment of 50,000 pounds of marijuana off the freighter ADINA bound from Colombia to the coast of Maine. Eighteen defendants were charged with conspiracy to possess with intent to distribute a large quantity of marijuana. Three defendants remain at large. The conspirators had hoped to make \$12 million on the venture. The leader of the conspiracy received a 30-year sentence. Other convicted defendants received sentences ranging from probation to 15 years.

Organized Crime Prosecutions

Prosecuting organized crime continues to be a high priority for this Administration, and U.S. Attorneys have played a major role throughout the country.

California. On July 19, 1984, near Ukiah, California, 11 gunmen robbed a Brink's armored car of \$3.6 million. Investigation by the Federal Bureau of Investigation with the assistance of an informant provided by the Secret Service revealed that the robbers were part of a neo-Nazi organization called "The Order," the organization is identified as having its roots in a pro-Aryan movement in northern Idaho and eastern Washington. Evidence that "The Order" was involved in murder, counterfeiting, other robberies and interstate transportation of stolen property spurred the formation of a task force of Assistant U.S. Attorneys from Oregon, Idaho, California, and Washington, as well as Federal Bureau of Investigation Agents from various field offices. In April 1985, a Racketeering Influenced and Corrupt Organizations (RICO) indictment was issued out of the Western District of Washington charging 23 members of "The Order" with racketeering violations. Five of the 23 defendants were arrested in the Eastern District of Washington, where additional charges were filed relating to

specific acts of racketeering. As the result of negotiations between these defendants and the task force attorneys, all five defendants pled guilty in the Eastern District of Washington to the racketeering indictment pursuant to Rule 20 and agreed to fully cooperate with government prosecutors. The agreement included forfeiting hundreds of thousands of dollars of cash and property obtained through the criminal enterprise. The five defendants also agreed to assist in the further investigation of the case and to testify against other "Order" members. The five are awaiting sentencing for up to 20 years, pending trial of the remaining defendants.

Virginia. Seven members of the Pagan Motorcycle Gang were successfully prosecuted on racketeering, drug, and firearms charges in the Western District of Virginia. The major target was Richard Henry "Dickie" Duncan, a former national vice president of the Pagan Motorcycle Gang, who was sentenced to 50 years' incarceration. Although the predicate acts of the racketeering charges included attempted murder and arson, the major focus of the prosecution involved the manufacture and distribution of methamphetamines and PCP.

Texas. In August 1985, Penelope Hatteras, the owner and operator of "Escort Services" in Georgia, Texas, and Colorado was convicted by a jury of 21 counts of conspiracy, interstate travel in aid of racketeering, and Mann Act violations. The defendant and her bookkeeper, Charles Holcombe, operated these services which were actually fronts for interstate prostitution. This Southern District of Texas case was investigated by the Federal Bureau of Investigation and local law enforcement authorities in Texas, Colorado, and Georgia.

Tennessee. Robert Daniel, operator of the Volunteer Amusement Company in Dyersburg, was sentenced to 13 years' incarceration, ordered to make restitution in an amount of over \$200,000 to victims of his crimes, and ordered to forfeit all interest in his company, following his conviction on racketeering, arson, mail fraud, and illegal gambling charges. While appealing a prior federal conviction for conducting an illegal gambling business through the use of video poker machines, Daniel hired a Dyer County Deputy Sheriff and a former Dyer County policeman (who was serving a bank robbery sentence in the Dyer County Jail), to commit arson on buildings and clubs in the Dyersburg area. Additionally, Daniel hired the two former law enforcement officers to murder the state District Attorney General, who had participated in the joint federal-state efforts to clean up the county. Also convicted were three former Deputy Sheriffs and three former policemen on arson, mail fraud, perjury and related charges. This investigation highlighted a number of federal, state, and local cooperative efforts throughout the Western District of Tennessee. Participating in this highly successful case were the Bureau of Alcohol,

Tobacco, and Firearms; the Tennessee Bureau of Investigation; the Tennessee State Fire Marshal's office; the State District Attorney General's office; the U.S. Attorney's office; and the Federal Bureau of Investigation.

West Virginia. A total of 44 people were convicted or pled guilty in the Northern District of West Virginia in the sweeping breakup of a massive drug organization that spanned the east coast and was ruled by fear, intimidation, and often punctuated with pistol whippings and shootings. Among those arrested were "kingpin" Carl Lee Gallo; Gallo's brothers, sisters, nieces, and nephews; a sergeant on a city police force; two former university football players; a university professor; a former assistant county prosecuting attorney; and the president of a local chapter of the Pagan Motorcycle Gang.

Carl Lee Gallo and his enforcers often "set-up" prospective drug suppliers and got away with the goods free of charge. Most of the organization's members were drug users (many of them addicts), and the cocaine, methamphetamine, quaaludes, LSD, and marijuana they controlled were frequently given away for sexual favors at parties that sometimes lasted several days. Seized by the United States were apartment buildings, a bar, a taxi company, vehicles and other items of personal property.

Confronted with a 100-count indictment and an exposure of life plus 1,105 years and a fine of nearly \$3.2 million, Gallo pled guilty to 10 counts, including RICO; income tax evasion, distribution of marijuana; distribution of methaqualones; use of a firearm in the commission of a crime; obstruction of justice; and threatening a grand jury witness. He was sentenced to 30 years, a committed fine of \$50,000, and a special parole term of life. He agreed to provide evidence in "specific areas of public corruption," and to testify against some of his former aides. In addition, many of Gallo's aides pled or were found guilty of RICO charges.

The crushing of the Gallo organization was a climax to a three-year investigation by the Organized Crime Drug Enforcement Task Force for the Northern District of West Virginia.

Public Corruption Prosecutions

Mississippi. In the Southern District of Mississippi, the President Pro Tempore of the Mississippi State Senate, Thomas Norman Brooks, was convicted after a jury trial of a Hobbs Act conspiracy to extort \$50,000 from the Mississippi Horse Racing Association. Senator Brooks used his office, the state's third highest government position, in an attempt to convince the Association that without his influence a bill would never pass legalizing the paramutual betting at horse racing tracks in two Mississippi counties. The Association reported the extortion attempt to the Federal Bureau of Investigation. A controlled delivery of \$15,000 cash was made to Brooks' bagman who was confronted by Federal Bureau

of Investigation Agents, given an opportunity to cooperate, and who agreed to complete the delivery. Brooks instructed the bagman to bring him the money at the lounge of a local motel. Brooks accepted the money in a brown paper bag in the parking lot, after which the Agents confronted him. The entire meeting was monitored by consensual electronics. Brooks contended at trial that the \$15,000 in the brown bag was a loan from the bagman. Brooks was sentenced to serve a nine-year term of imprisonment. Note: The horse racing bill was eventually defeated.

Tennessee. James Thomas "Tommy" Cribbs, Sheriff of Dyer County, Tennessee, was convicted along with four former deputies and three former policemen in a series of cases in the Western District of Tennessee. Cribbs was sentenced to five years' imprisonment following his convictions on civil rights, mail fraud, tampering with witnesses, and firearms violations. Cribbs had allowed various criminal activities to take place in his county in return for things of value. Cribbs assaulted and threatened to kill prisoners in his custody and citizens on four different occasions, by putting guns to their heads, firing shots over their heads, and physically abusing them in order to obtain confessions or to vindicate some interest of his own.

New York. As a result of an ongoing probe of corruption into the Federal Aviation Administration's Eastern Region, three senior officials of the Federal Aviation Administration, Donald Gold, Pompeo Della Rocca, and Eugene Metz, were indicted on charges which included racketeering, bribery, conspiracy, filing false claims, and tax evasion. In addition, a forth high level Federal Aviation Administration official, Allen Moserowitz, was charged in an information with tax evasion and accepting over \$400,000 in bribes. The allegations against these officials involve, in addition to other criminal acts, the submission of more than 5,000 fraudulent claims against the Federal Aviation Administration in excess of \$1.3 million during the period between 1973 and 1982, and the receipt of hundreds of thousands of dollars in bribes and kickbacks. Eugene Metz was found guilty after a two-week jury trial. Defendants Gold, Della Rocca, and Moserowitz entered guilty pleas. Additionally, two vendors, Murray Herman and Edward Josephson, and a contractor, Frank Schrott, entered guilty pleas to charges of bribery and tax evasion.

Puerto Rico. Five persons, including an attorney and two former Police of Puerto Rico officers, were convicted for the deprivation of rights under color of law and of conspiracy against rights of a citizen for the contract killing of a young Puerto Rican girl. At the time of her assassination, the victim was a state's witness of a murder and was under the protective custody of the Police of Puerto Rico.

Indiana. On June 8, 1985, Claude R. Magnuson, former Democratic state finance chairman and an attorney; Fred W. Garver, an attorney and lobbyist; and Larry R. Mohr,

former board chairman of the Carmel Bank and Trust Company and former president of the Indiana Electric Association, were convicted after a seven-week jury trial of charges involving more than \$1 million in fees generated through bribery in reducing tax assessments in downtown Indianapolis. Earlier, Frank C. Corsaro, former Marion County assessor and former deputy assessor of Center Township; Henry R. Bayt, Center Township assessor; and Charles M. Rawlings, chief deputy assessor for Center Township, pled guilty to receiving bribes and testified as government witnesses in the trial of Magnuson, et al. H. Kent Howard, also an attorney, pled guilty to two counts of filing false income tax returns and one count of mail fraud related to the Merchants Plaza assessment. The jury reached its verdict after deliberating one day. The three defendants attacked the credibility of the three public officials, aided by the initial denials of the officials before the grand jury. However, the defendants were unable to explain their laundering of almost \$1 million in cashier's checks after generating fees by the reduction in assessments through the bribery conspiracy. The downtown property involved the Merchants Plaza which houses the Hyatt Regency Hotel, a bank, and a parking garage. After receiving a \$7,300 bribe, Bayt reduced the tax assessment of Merchants Plaza from \$28.4 million to \$10.8 million. The defendants were convicted of receiving a total of \$1,153,000 in fees for gaining tax assessment reductions for 1977, 1978, and 1979. Mohr, a former chairman of the Indiana State Board of Tax Commissioners, arranged for most of the fees to be laundered by issuing cashier's checks through his bank. Garver, Mohr, and Magnuson were sentenced to three years and Mohr also received a \$20,000 fine. The case was developed by a Federal Bureau of Investigation-Internal Revenue Service task force that investigated the fraud over a two-year period.

New Mexico. In December 1984, Phillip Troutman, State Investment Officer, and Kenneth Johnson, Deputy State Treasurer, were indicted for violation of the Hobb's Act in connection with a conspiracy to extort money from Irving Trust of New Mexico in exchange for the award of state business. Mr. Troutman was responsible for the investment of state permanent funds exceeding \$1 billion. Mr. Troutman and Mr. Johnson demanded a political contribution or other payment of money in the amount of \$2,000 in exchange for Irving Trust Company being considered for a contract to hold state securities, and act as transfer bank of the state securities. Both Mr. Johnson and Mr. Troutman were each convicted and sentenced to two years' incarceration. Mr. Johnson is presently serving his sentence, while Mr. Troutman is appealing his conviction. This case was jointly prosecuted by the U.S. Attorney's office and the New Mexico State Attorney General's office. A significant pretrial issue was the power of the Attorney General of the State of New Mexico to act as a Special Assistant U.S. Attorney in the

prosecution of state officials involved in corrupt activities. The district court held that the appearance of the State Attorney General as a Special Assistant U.S. Attorney was authorized under both state and federal law, and there existed no conflict of interest by reason of the Attorney General's duties as chief legal officer of the State of New Mexico. This case was jointly investigated by the Federal Bureau of Investigation and the criminal investigators from the New Mexico State Attorney General's office.

Pennsylvania. An attempt to discover the source of drugs for a major Pittsburgh drug dealer led federal investigators to an individual named H. B. Sandini in south Florida. Sandini was on federal probation as a result of a 1981 drug conviction in Alabama. Shortly after focusing on Sandini in late 1983, federal investigators discovered that during the period which Sandini was allegedly involved in the importation and distribution of cocaine, he was also acting in the capacity of an undercover operative in a Group One undercover project being run by the Federal Bureau of Investigation in Miami, code named "Operation Airlift." "Airlift" was created to allow Sandini and Federal Bureau of Investigation Special Agent Dan A. Mitrione to infiltrate south Florida drug smuggling operations. Instead, Sandini and Mitrione utilized their positions to import and distribute cocaine.

In the spring of 1984, the task force investigators in the Western District of Pennsylvania collaborated with the U.S. Attorney for the Southern District of Alabama and local police agencies from Florida in accumulating and presenting sufficient evidence to revoke the federal probation imposed on Sandini in Alabama.

In March 1985, former Federal Bureau of Investigation Agent Dan A. Mitrione pled guilty to one count of bribery, one count of cocaine distribution, and one count of conspiracy to distribute cocaine, based on informations filed jointly in the Southern District of Florida and the Western District of Pennsylvania. Mitrione's sentence has been deferred pending the outcome of this investigation. Mitrione acknowledged earning almost \$1 million as a result of his drug dealing activities.

Illinois. Richard LeFevour, Chief Judge of the Chicago Traffic Court between 1972 and 1981, and the presiding judge of the First Municipal District of the Circuit Court of Cook County between 1981 and 1984, was convicted on 59 counts of racketeering, mail fraud, and making false statements on his tax returns in connection with a 14-year bribery scheme of fixing drunk driving cases, parking tickets, and misdemeanor cases. LeFevour, the highest ranking judge to be convicted in the Operation Greylord probe, was found guilty of fixing hundreds of drunk driving cases a year at a cost of \$100 each. In addition, LeFevour was convicted of dismissing thousands of parking tickets for cash, without any money being turned over to the City of Chicago.

LeFevour was sentenced to 12 years in the custody of the Attorney General.

Violent Crime Prosecutions

Illinois. A major effort by a task force of federal, state, and local law enforcement agencies in the Northern District of Illinois resulted in the prosecution and conviction of four defendants accused of being members of the FALN, an underground terrorist group seeking to overthrow the democratic government in Puerto Rico by committing acts of violence against the U.S. government. With court authorization, task force agents installed hidden video cameras and microphones in two Chicago apartments that the defendants used as "Safehouses." The electronic surveillance enabled agents to monitor, and thereby thwart the defendants' criminal plans, including their efforts to: break two FALN members out of prison, rob a subway fare collector, and bomb several military installations on the Fourth of July. The defendants were convicted of seditious conspiracy and various related charges.

Wyoming. Hack and Owens were being transported in a prisoner transport plane from the Nevada State Penitentiary to Rock Springs, Wyoming, to stand trial for the murder of a convenience store clerk. On the plane were eight other prisoners, as well as the pilot and copilot who doubled as guards. At an earlier stop, Hack, with the help of Owens, managed to slip his belly chain and trade places with Owens so that he was in the seat directly behind the female copilot/guard. When the plane began its descent into Rock Springs, Hack slipped his belly chain around the neck of the copilot and began to strangle her. In the melee that followed, the pilot lost control of the airplane and both the pilot and Hack were shot. The pilot managed to land the plane safely. Hack and Owens were convicted by a jury in federal district court of air piracy and conspiracy to commit air piracy. Hack received a sentence of 50 years to run consecutive with his sentence already imposed by the State of Nevada. Owens was sentenced to five years, which would run consecutive to a sentence already being served in the State of Nevada.

Virgin Islands. On July 24, 1984, a security guard assigned to a local high school was found hanging from a tree near the school. Defendant Jackson, who had earlier fled from New York after killing another guard, acted with two others in killing another guard, acted with two others in killing the man on St. Thomas. Jackson pled guilty to murder in the second degree and escape. He was sentenced to 50 years on the murder charge, and 10 years on the escape charge. The other two defendants cooperated with the government and, after pleading guilty to murder in the second degree, received sentences of 10 years each.

Arkansas. Ronald O'Neal, a former owner of a Little Rock nightclub, and his two accomplices were convicted of

bombing and burning two competing nightclubs and conspiring to kill one of the witnesses to a bombing to prevent her from giving information to law enforcement officers. The investigation commenced with a meeting of The Arson Subcommittee of the Law Enforcement Coordinating Committee for the Eastern District of Arkansas comprised of officials of city, state, and fire agencies; the U.S. Attorney's office; and the Bureau of Alcohol, Tobacco, and Firearms. The Subcommittee shared information it had on 13 nightclub fires and bombings in Little Rock in 1984. The state prosecutor deferred to the U.S. Attorney for prosecution in December by virtue of the detention provisions of the Comprehensive Crime Control Act of 1984. The cooperation could not be obtained from the key witness until she could be assured that O'Neal would be detained pending trial. O'Neal was given a sentence of 30 years and his accomplices terms of 12 and four years. The trio had, in less than a year, caused over \$1.5 million damage to the 13 Little Rock restaurants and nightclubs.

In the Western District of Arkansas, James Ellison, leader of a white supremacist group known as "The Covenant, the Sword, and the Arm of the Lord," was convicted of racketeering charges based upon arson relating to fires at a Jewish Community Center, the bombing of a natural gas pipeline, and other arson offenses. Ellison was also convicted of conspiracy to possess illegal weapons based upon the seizure of numerous machine guns, grenades, explosives, and silencers found during a search of the group's 224-acre compound after a four-day siege by more than 300 law enforcement officers. Ellison received a sentence of 20 years. The case was investigated jointly by the Arkansas State Police; the Federal Bureau of Investigation; and the Bureau of Alcohol, Tobacco, and Firearms.

Texas. In the summer and fall of 1984, banks in Leesville, Louisiana; Valley View, Texas; and, Overton, Nevada, were hit by a unique six-man bank robbery team which utilized aircraft as their getaway vehicles. In Leesville and Valley View, a previously stolen helicopter was landed in a lot immediately adjacent to the bank, and four men wearing flak jackets and carrying automatic weapons entered the banks, obtained the money, and departed in less than 10 minutes. As a result of finding a prescription bottle left behind in a satchel at Overton, Nevada, the men were identified, warrants issued, and arrests made in Houston, Las Vegas, and Key West. To date, four of the robbers have been indicted and convicted. Three were sentenced to 25-year terms and one received a five-year term.

Tennessee. Jimmy Broussard, a former New Orleans policeman, and his sister, Marie "Sue" Reitmeyer, a Wells Fargo employee, were given maximum sentences of 35 years each following their jury convictions as masterminds of the \$6.3 million robbery of the Wells Fargo terminal in Memphis on Thanksgiving Day 1983. This was the third largest

cash robbery in U.S. history. Mrs. Reitmeyer gained entry for Broussard and two other accomplices into the Wells Fargo terminal creating the appearance that the "inside" job was a robbery. This crime remained unsolved for approximately 10 months, until a joint effort by the Federal Bureau of Investigation, and the Memphis and New Orleans Police Departments resulted in arrests and seizures of over \$3 million in cash.

In December 1984, Marcellus Ward, a Baltimore City Police Detective assigned to the Drug Enforcement Administration Task Force as a Special Deputy U.S. Marshal, was murdered during an undercover narcotics transaction taking place in the third floor apartment of a Baltimore rowhouse. Simmons shot Detective Ward four times, the fourth bullet inflicting the mortal wound. Detective Ward was an extremely popular and effective officer and had participated in two of the more prominent continuing criminal enterprise prosecutions pursued in federal court in this district. Simmons was convicted of first-degree murder of a federal officer, in violation of 18 U.S. Code 1114. At his sentencing on September 20, 1985, he faces the mandatory penalty of life imprisonment.

New York. In October 1982, the wife of a Chinese restaurant owner in the Kingston, New York, area was kidnaped. Ransoms totaling \$180,000 were paid for her release. Although her body was never found, the credible evidence indicated that the victim was killed by her abductors. Seven individuals were indicted in connection with the kidnaping. All were natives of Malaysia and six were illegally in the country.

Following the kidnaping, the primary target fled the United States but continued to contact the victim's husband. In these contacts Bing-Gong advised that the victim was still alive and would be released upon the payment of additional ransom money. The Federal Bureau of Investigation, in cooperation with Japanese authorities, arranged to wire \$25,000 to a bank designated by Gong in Tokyo. Gong was arrested by Japanese authorities as he attempted to collect the ransom. He was extradited to the United States following a series of legal proceedings in Japan.

One defendant pled guilty and testified during the two-month-long trial. At the close of the government's case, the defense moved to dismiss on the basis of lack of federal jurisdiction due to the fact that the victim's body was never recovered and, therefore, the government was unable to establish interstate transportation. This motion was denied on the basis of the circumstantial proof that the first ransom call came from New Jersey and the vehicle used in the kidnaping was rented in New Jersey. Gong and three other defendants were convicted. Gong received a life sentence.

District of Columbia. On August 25, 1984, at about 6:15 p.m., while driving in southeast Washington, D.C., the defendant's auto veered across a median, through the two

eastbound lanes and up onto the south curb of M Street, near Third Street, S.E., where it struck nine people who were waiting at the bus stop. Seven people were killed and two others seriously injured. The defendant, who was alone in the car, sustained minor injuries. The defendant's blood-alcohol content was about .10. In addition, he had traces of marijuana, cocaine, and heroin in his system. The defendant, a 42-year-old man, recently had been released on parole for bank robbery and armed robbery convictions and had no driver's license.

The defendant was indicted on seven counts of Murder II while armed, and two counts of assault with a deadly weapon. On May 16, 1985, he pled guilty to two counts of manslaughter while armed, five counts of unarmed manslaughter and driving while intoxicated. On August 14, 1985, he was sentenced to imprisonment for a term of 35 to 105 years.

On January 29, 1985, Sylvester King and two confederates robbed a supermarket at gunpoint and fled on foot to a nearby bus station. Metropolitan Police Department Sergeant Joseph Cournoyer tracked them there and followed King onto a bus. Sergeant Cournoyer frisked King briefly and escorted him off the bus to avoid endangering any other passengers. King broke free and shot Cournoyer fatally in the heart. King was arrested promptly and held without bond pending trial. Following an intensive investigation involving interviews of almost 100 witnesses, all three defendants were indicted. Two pled guilty. King was convicted after trial of all nine counts including premeditated first-degree murder.

White-Collar Crime Prosecutions

Oregon. On January 9, 1985, Thomas R. Pendergraft, the former president of the failed Columbia Pacific Bank and Trust Company, was charged in a 70-count indictment with conspiracy, bank embezzlement, and tax fraud. The indictment followed a joint investigation by the Internal Revenue Service and Federal Bureau of Investigation. Following two jury trials, Pendergraft was convicted of tax fraud and bank fraud counts and was sentenced to five years' imprisonment on July 27, 1985. Pendergraft is cooperating in the prosecution of a codefendant, Thomas R. Wolf, a lawyer who was a former bank director and legal counsel. Wolf was charged with conspiracy and bank fraud in a 44-count indictment returned in July. The Wolf case is set for trial on January 14, 1986.

Tennessee. Jacob F. Butcher, twice the Democratic candidate for Governor of the State of Tennessee and president of the United American Bank chain, was convicted and sentenced in the Eastern District of Tennessee in July 1985 to 20 years on a conspiracy charge and seven other counts of bank fraud, the fraud involved over \$30 million in losses to Butcher's chain of United American Banks in Tennessee,

which failed, resulting in the loss of hundreds of millions of dollars. Butcher's sentence in this case was the largest ever received in a plea bargained white-collar crime case. In addition, Butcher's chief lieutenant, Jesse A. Barr, a previously convicted bank fraud felon, received an 18-year sentence. Also, Jack H. Patrick, vice president of the United American Bank, received a four-year sentence for his part in aiding and abetting Butcher's fraud. This investigation was jointly carried by the U.S. Attorneys' offices for the Western and Eastern Districts of Tennessee and Eastern District of Kentucky (which also obtained a concurrent 20-year sentence against Butcher on a related bank fraud), and the Fraud Section, Criminal Division, of the Department of Justice, which provided attorney assistance.

This was the most highly publicized case in the history of this district and was investigated by a special team of Federal Bureau of Investigation and Internal Revenue Service Agents assembled to work closely with attorneys assigned. The result of this case reflects the Department of Justice's dedication and ability to obtain convictions and high sentences on white-collar criminals involved in major fraud.

South Carolina. Ray V. Segars, Jr., 56, one of South Carolina's largest farmers and agricultural businessmen, was convicted of six counts of conversion of crops under lien to the government, lying in connection with government farm loans, and theft of negotiable instruments from three federally insured creditor banks. A Department of Agriculture investigation was prompted by Segars' \$5.2 million bankruptcy. Investigators concluded the financial disaster was the result of Segars' heavy losses in commodity futures speculation and extravagant living standards, both while using federal funds obtained for farming purposes. Cooperation between the U.S. Attorney's office and the bankruptcy trustee in related civil litigation is expected to yield minimal or no losses to secured federal creditors. On June 3, 1985, Segars was sentenced to five years in jail. He did not appeal his convictions.

New Hampshire. Respiratory Care Services, Ltd., and its sole stockholder and president, Donald R. Simone, were convicted on 67 felony counts of mail fraud, false statements, and payments of kickbacks to a hospital administrator in relation to a scheme to defraud the United States by over inflating medicare bills. William Fitzpatrick, acting administrator of a small northern county New Hampshire hospital, was also convicted for receiving kickbacks from Simone in payment for awarding a hospital contract to Respiratory Care Services, Ltd., which was, in large part, paid with medicare funds. The scheme entailed fraudulent billings under both Part A (Hospital Care) and Part B (Home Health Care) submissions by Respiratory Care Services, Ltd., a respiratory care provider. This was the first medicare prosecution in the District of New Hampshire and

one of the only successful prosecutions of a provider and hospital administrator in the country. Simone was sentenced to two years in prison and received fines and restitution orders of approximately \$27,000. The corporation was fined \$45,000. William Fitzpatrick was fined \$10,000 and incarcerated for three months.

District of Columbia. On March 4, 1985, Paul Thayer, the former Deputy Secretary of Defense, and Billy Bob Harris, a prominent Dallas stockbroker, entered pleas of guilty to obstruction of justice before the U.S. District Court for the District of Columbia. They were sentenced on May 8, 1985 to four years in prison and a \$5,000 fine. In imposing sentences of incarceration, the Honorable Charles R. Richey stated that he would not "hang a medal on the lapel of your coat for the breach of trust, the false statements...and the obstruction of justice you have engaged in in recent years..." This was a most unusual and important criminal action considering the nature of the crimes, the prominence of the individuals who committed the crimes, and the punishment meted out by the court.

The case involved complex "insider trading" by Thayer and Harris, and subsequent obstructions of justice by these individuals in attempts to conceal their wrongdoing. Thayer, while chairman of the Board of Directors and chief executive officer of the LTV Corporation in Dallas, and a member of the Board of Directors of both Anheuser-Busch, Inc., and Allied Corporation, Inc., passed confidential non-public information to his friend Harris, who was employed in the Dallas office of the A. G. Edwards and Sons, Inc. The insider information concerned Busch's prospective acquisition of Campbell-Taggart, Inc., in the summer of 1982, and Allied's acquisition of the Bendix Corporation in September 1982. Using this insider information, Harris purchased large quantities of Campbell-Taggart, Inc., and Bendix stock for himself, his friends, and Thayer's friends. Illegal profits of over \$1.5 million were reaped by this illegal activity. The Securities and Exchange Commission began an investigation of this suspected insider trading in February 1983. At that time and during the course of the Securities and Exchange Commission investigation, Thayer was Deputy Secretary of Defense. During the investigation, Thayer and Harris both gave sworn testimony proven by subsequent investigation to be false.

The criminal investigation was directed by the U.S. Attorney's office for the District of Columbia, with assistance from the Department's Fraud Section of the Criminal Division and the Securities and Exchange Commission. Outstanding effort was also contributed by Special Agents of the Federal Bureau of Investigation. Over 60 witnesses testified before the federal grand jury and after this extensive investigation, Thayer and Harris entered pleas of guilty to a 35-page information. The case drew national attention because of the seriousness of the crimes committed, the

privileged positions held by the defendants, and the just sentences meted out by the court.

Texas. On April 3, 1985, the federal grand jury in the Southern District of Texas returned a 10-count indictment against eight defendants who were engaged in a major credit card fraud ring involving 15 states. The group was led by defendant Clifton Johnson who moved his operations from Los Angeles to Houston in May 1984. The group purchased stolen microfilm from employees inside the Bank of America Card Center in California. That microfilm contained complete credit card account information on over 10,000 customers. Johnson, et. al., reembossed previously stolen credit cards from the bank and through the mail. Using the true account numbers and fake identification to match the cards, he sent his coconspirators to banks around the country to obtain cash advances ranging from \$2,000 to \$4,000 per bank. These defendants were charged and convicted of credit card fraud. These individuals defrauded Bank of America and member card banks of at least \$2 million. Recently, Judge DeAnda ordered one of the defendants to pay restitution to Bank of America in the amount of \$227,000 along with his sentence to prison. Since the arrest and convictions of these defendants, Bank of America informed the court at a sentencing/restitution hearing that credit card fraud with their bank has decreased 60 percent. This case involved the first use of the Credit Card Fraud provisions of the Comprehensive Crime Control Act of 1984.

New York. An Eastern District of New York case involved the successful prosecution of several individuals, including three lawyers and two doctors who were associated with a major plaintiff's negligence law firm, on charges of operating the law firm as a racketeering enterprise over a 10-year period. The defendants were charged with engaging in various fraudulent practices in connection with the processing and litigation of claims for personal injuries arising out of automobile accidents. These frauds included the submission to insurance companies of false medical bills, claims for lost wages and other expenses, and the litigation of these fraudulent claims in New York State courts. On July 18, 1985, the law firm's principal attorney, bookkeeper and chief paralegal, and a medical doctor pled guilty to various charges, including violations of the Racketeer Influenced and Corrupt Organizations and mail fraud statutes. On August 15, 1985, after a 2 1/2-week trial, two other attorneys and a paralegal of the Teitler firm were found guilty of violations of the Racketeer Influenced and Corrupt Organizations, mail fraud, and obstruction of justice statutes.

Pennsylvania. In a major defense procurement fraud case in the Eastern District of Pennsylvania, the General Electric Company pled guilty to a 108-count indictment arising out of mischarging the U.S. Air Force in a series of contracts to

replace existing reentry vehicles on the Minuteman Intercontinental Ballistic Missiles. General Electric was ordered to pay the maximum fine of \$1,040,000 and restitution in the amount of \$800,000, which was the amount of the overcharge.

Also charged in indictments arising out of the investigation were General Electric employees Joseph Calabria, Forrest Yocum, and Richard S. Davis. Calabria, the chief engineer for the Reentry Systems Division in Philadelphia, was charged with two counts of perjury. He was convicted on both counts and is awaiting sentence. The case arose out of an investigation by this office, the Federal Bureau of Investigation, and the Defense Contract Audit Agency.

The E. F. Hutton Corporation was prosecuted in the Middle District of Pennsylvania on a multicount indictment charging mail fraud arising out of a "Check Kiting Scheme." The scheme charged in the indictment was basically a nationwide scheme whereby the E. F. Hutton Corporation would systematically overdraft its various bank accounts resulting in large inflated balances on which Hutton would obtain interest payments. The Corporation entered a guilty plea pursuant to a plea agreement with the U.S. Attorney's office for the Middle District of Pennsylvania and the Department of Justice. The plea agreement specifically provided that heavy fines would be imposed and restitution would be required. The case has been described as the largest fraud case ever undertaken against a major brokerage house in the United States.

California. On June 24, 1985, Jerry "J. David" Dominelli was sentenced to 20 years custody and was ordered to pay \$82.2 million in restitution. Dominelli operated a colossal "Ponzi" scheme from mid-1979 until February 1984. Over \$200 million were invested by approximately 1,500 investors. Sixty percent of the investment dollars were returned as withdrawals and "profits." The remaining \$80 million was squandered by Dominelli on losing business ventures, extravagant offices, salaries and commissions, luxury automobiles, homes, and airplanes. A stockbroker, Dominelli achieved seemingly phenomenal success with his own business, J. David & Co., by falsely claiming the ability to make 40 percent annual profits from trading foreign currencies in the Interbank market. He attracted celebrities, prominent political and social figures, judges and lawyers. One investor, the mayor of San Diego, is being prosecuted for nondisclosure of campaign funds originating from Dominelli. Dominelli pled guilty to bankruptcy fraud, mail fraud, and tax evasion. A codefendant received 90 days' custody for criminal contempt after he assisted Dominelli in concealing property from the bankruptcy estate. The property was taken to the island of Montserrat, where Dominelli had fled to avoid contempt charges in his bankruptcy case. The case is the subject of a

book already in print, *Captain Money and the Golden Girl*, by financial editor Don Bauder.

Washington. Kenneth D. Oxborrow, 33, Moses Lake, Washington, pled guilty and was sentenced on December 13, 1984, in the U.S. District Court for the Eastern District of Washington, on charges of fraud by commodity pool operator, fraud in the sales of securities, mail fraud, and conspiracy. He also entered guilty pleas in the Superior Court of the State of Washington for Grant County, in the willful violation of a cease and desist order, theft in the first degree, and fraud in connection with the offer and sale of a security.

The defendant engaged in a Ponzi-type scheme from 1979 until September 1984, in which he obtained in excess of \$58 million from over 1,000 victims in the Eastern District of Washington and in other states. The defendant led investors to believe they were obtaining 1 1/2 to two percent, per week, in profits from investments in the commodity futures market; and, in some cases, he guaranteed them a fixed return of as much as five percent per month on their investments.

The pleas were the result of a negotiated agreement entered into with the defendant following a cooperative effort by the U.S. Attorney's office, county prosecutors, state security officials, and attorneys for the Securities and Exchange Commission and Commodity Futures Trading Commission. The defendant has filed a chapter 11 bankruptcy proceeding in which the trustees are attempting to recover the assets from the defendant and others in order to repay creditors who have sustained a loss of approximately \$15.4 million. Mr. Oxborrow was sentenced to terms of four years by the federal court, and 15 years by the superior court, to be served concurrently. Actual time served will be 10 years without possibility of parole. Two other significant defendants have been indicted for securities fraud relating to the Oxborrow matter.

Other Major Criminal Prosecutions

California. In the Central District of California, Thomas Patrick Cavanagh was employed by Northrop Corporation as an engineering specialist. In November 1984, he attempted to furnish classified documents and information about the Stealth Bomber to the Soviets. Cavanagh mailed a classified document pertaining to the project to the Soviet Consulate in San Francisco. He also placed several telephone calls to the Soviet officials to arrange a meeting. On December 10, 1984, Cavanagh met with undercover Federal Bureau of Investigation Special Agents posing as representatives of the Soviet Union and showed them a diagram of the Stealth Bomber, classified as "Secret." At later meetings, Cavanagh delivered drawings, manuals, and blueprints of the bomber. Cavanagh was arrested for espionage and pled guilty to two counts of attempting to

deliver defense information to aid a foreign government. On May 23, 1985, he was sentenced to two life terms of imprisonment.

In the Northern District of California, a 12-count indictment charged the defendant with seven counts of espionage and five counts of related tax offenses, for allegedly passing sensitive and classified military information on Cryptographic and Communications Systems gleaned during his U.S. Navy service. He passed the information to suspected spy ringleader John Walker, who relayed the information to agents of the Soviet Union who were helping Moscow track U.S. naval operations worldwide. The tax offenses alleged include four counts of false returns and one count of conspiracy to defraud the U.S. government, by failing to report some \$328,000 of income allegedly received from John Walker.

West Virginia. Twenty-eight individuals were indicted in May 1984, involving a multistate stolen car ring centered in Parkersburg, West Virginia, and operating for five years in the states of Ohio, Kentucky, Maryland, Pennsylvania, and West Virginia. Twenty-five of the individuals have since entered into plea agreements and have been sentenced. Two defendants, including the "kingpin," were convicted in jury trials of multiple counts. The court ordered over \$130,000 of restitution be paid by the defendants along with considerable fines and periods of incarceration. This two-year investigation, involving the cooperation of the Wood County Prosecuting Attorney's Office, the Federal Bureau of Investigation, and the West Virginia State Police, aided in solving a large number of state crimes.

Massachusetts. On April 4, 1985, Dr. Alfred Zehe, an East German physicist, was sentenced to eight years in federal prison and fined \$5,000 after pleading guilty to five counts of espionage against the United States. Zehe admitted to having paid an employee of the U.S. Navy \$21,800 for classified documents related to U.S. submarine defenses. Unknown to the East Germans, the Naval employee was working with the Federal Bureau of Investigation and the Naval Investigative Service. The case was especially significant for establishing that U.S. espionage laws apply to acts of espionage committed by non-citizens outside the territorial jurisdiction of the United States. Zehe later figured prominently in an East-West prisoner exchange.

Missouri. In the Western District of Missouri, four anti-nuclear protestors, including two Roman Catholic priests, an American Indian, and a woman, were convicted of damaging national defense material, at a Minuteman II missile site at Whiteman Air Force Base, with a jackhammer and sledgehammers. On March 27, 1985, the court imposed sentences on the four defendants ranging from eight to 18 years' imprisonment.

Iowa. In a highly publicized murder-for-hire case in the Southern District of Iowa, a 62-year-old Des Moines in-

insurance executive was convicted of four counts of obstruction of justice in an attempt to murder the president of a Teamster local who was the target of a grand jury investigation. The insurance executive, who served as the administrator of the local Teamster health and welfare pension plan, had been called before the grand jury as a witness and later attempted to obstruct the grand jury by killing the target of the grand jury investigation. The defendant was sentenced to a maximum 30-year period of imprisonment.

Georgia. In February 1985, James Alton Edwards, Jr., became the fourth person in the United States indicted under 18 U.S. Code 2251, the Child Protection Act of May 1984. A joint Federal Bureau of Investigation and local investigation revealed that Edwards operated a mail order pornography business from his home in Centerville, Georgia. Edwards solicited minor females, including his eight and 10-year-old stepdaughters, to engage in sexually explicit conduct for the purpose of photographing them. Edwards also specialized in pornography depicting bestiality and sadomasochism. Edwards pled guilty and was sentenced by the district court to a 10-year term of imprisonment. The local District Attorney's office and the U.S. Attorney's office for the Middle District of Georgia united in a prosecutive effort against Edwards, who was also charged with statutory rape and child molestation.

Florida. On August 7, 1984, Mario Portela, the son of a local Miami construction builder, was kidnaped from his father's office by Julio DeParias, his sister Julita DeParias, and Jessie Ramirez. From August 7, 1984, to August 12, 1984, numerous extortion telephone calls were made by Julio DeParias and Jessie Ramirez to Jesus Portela, the victim's father, demanding \$1 million for the release of his son. On August 12, 1984, Jesus Portela attempted to pay \$1 million in cash to the kidnapers but was unsuccessful. Ultimately, Mario Portela was murdered on August 17, 1984, at a Miami residence and was dumped in a drainage ditch in Davie, Florida.

After a nationwide search for the kidnapers, Julita DeParias, Hector DeParias, and Jessie Ramirez were apprehended on September 24, 1984, in Los Angeles, California. Julio DeParias is still a fugitive. Upon his arrest, Hector DeParias admitted his involvement in the abduction and murder as well as implicating his brother and sister and Jessie Ramirez. Hector DeParias pled guilty and cooperated with the government at trial. He testified against Julita DeParias and Jessie Ramirez. Julita DeParias and Jessie Ramirez were found guilty and sentenced to 40 years in jail and received a \$40,000 fine.

In the Northern District of Florida, four individuals were prosecuted on conspiracy, destruction by explosives, and firearms charges resulting from the Christmas morning bombings of three local medical facilities where abortions were performed. The investigation was spearheaded by the

Bureau of Alcohol, Tobacco, and Firearms' National Response Team, and benefited from the cooperation of local law enforcement agencies. From the rubble at the three sites, bomb fragments were discovered that eventually led to the arrest of the defendants. The defense team presented a rather unusual combination of defenses of insanity and necessity, each focused on the abortion issue. The two female defendants were convicted of conspiracy, while the male defendants were found guilty on all counts, sentenced to 10 years' imprisonment, and ordered to pay restitution.

Alaska. After a three-week trial, Alaska's major tax protester was convicted of felony tax evasion and sentenced to three years' incarceration. Despite the fact that the defendant has led a large contingent of "constitutionalist" tax protesters, and encouraged them to file Fifth Amendment returns or to refrain from filing, he contended at his trial that he had no taxable income in 1978 because he suffered a "theft loss." The trial involved sophisticated principles of tax accounting and tax law, in contrast to the usual "tax protester" trial. Smith was unsuccessful in his paradoxical attempt to take advantage of "tax loopholes," and was disbelieved by the jury. The United States obtained the conviction of Smith despite the failure of the state to convict him on parallel charges two years previously.

New York. In March 1984, at the request of the U.S. Attorney for the Northern District of New York, the Tax Division authorized the nation's first felony prosecution of a tax protestor, Dean P. Koski, for tax evasion based upon his failure to file tax returns and his submission of false W-4 forms claiming exemption from withholding.

Upon Koski's conviction in January 1985, the Department began authorizing similar felony prosecutions around the country in response to the extremely widespread utilization by tax protestors of this method of evasion. Internal Revenue Service statistics showed that at one large construction project in Oswego, New York, 1,608 false W-4 forms were submitted resulting in a \$22 million loss of withholding in one year. Since this case, a number of similar felony charges have been filed against members of tax protest organizations in this district and throughout the country.

Major Civil Prosecutions

Louisiana. In the Western District of Louisiana, summary judgment was granted in favor of the United States and against the parents and brothers of Dennis Landen, Jr., deceased. In these consolidated cases, negligence was alleged in the explosion of an M-72 Light Antitank Weapon (LAW), which had been obtained by Dennis Landen, Jr., and his brother, Charlie Michael Landen, from the ranges at Fort Polk, Louisiana, and transported to the home of their grandmother. The death of Dennis Landen, Jr., and serious injuries to Charlie Michael Landen, ensued when the young men were attempting to separate metal from the round, for

the purpose of selling it. The case attracted attention with the Department of Defense as it was the first of its kind within the Department of the Army, to have summary judgment granted.

California. The plaintiff, the dependent wife of a retired serviceman, sought \$3.5 million in damages for alleged medical malpractice occurring during a lengthy coronary artery bypass graft procedure at the Naval Hospital, San Diego. The plaintiff asserted that her leg was improperly positioned during the operation, resulting in multiple nerve damage to the leg and leading to the plaintiff's confinement to a wheelchair. Although initial evaluations by both Navy medical consultants and private physicians tended to support the plaintiff's theory, a thorough review of subsequent neurological testing revealed a pattern of nerve damage that was arguably inconsistent with the plaintiff's theory. Further expert evaluation revealed that the plaintiff was probably the victim of a rare but unavoidable complication resulting from the emergency utilization of an intra-aortic balloon pump during the lengthy surgery to assist the plaintiff's circulation and save her life. After an eight-day trial devoted almost entirely to expert testimony cutting across many medical specialties, the court found that the plaintiff's injuries were caused by the necessary use of the balloon pump and there was no negligence on the part of any Navy medical personnel.

New York. On April 24, 1985, the United States was awarded a judgment of more than \$23 million in interest against Gulf Oil Corporation (Gulf) in connection with the Department of Energy's claim regarding the lost value on a Consent Order fund during five years of litigation over the terms of the fund's ultimate distribution. Some six years earlier, Gulf and the Department of Energy had established a \$42.24 million Consent Order fund to settle allegations by the Department of Energy that Gulf had overcharged purchasers of petroleum products in violation of the Economic Stabilization Act. Gulf later attempted to renege on the agreement and sought to have the Consent Order declared invalid. In March 1984, the U.S. Attorney's office for the Eastern District of New York moved for summary judgment on the Department of Energy's claim to interest. The April 24, 1985, decision, awarding interest on the fund to the United States, resolved the last open issue in the case.

Montana. The government of Jordan formally requested that the U.S. government recognize the immunity of King Hussein as the head of state of the Hashemite Kingdom of Jordan. The Department of State viewed dismissal of the action as having significant foreign policy implications with the head of state of a friendly country.

A suggestion of immunity was submitted under the procedure developed by former Justice John Marshall, as reported in 7 *Cranch*. Argument was made under international law principles. When King Hussein was dismissed

from the suit, he joined an exclusive brotherhood of heads of state who had received similar treatment, such as Prince Charles, the Prince of Wales, and President Marcos of the Philippines.

Virginia. In a case arising out of a joint investigation by Drug Enforcement Administration; Bureau of Alcohol, Tobacco, and Firearms; Internal Revenue Service; and county and city officers that resulted in 28 convictions for distributing methamphetamines, the United States seized what became known as the Hilltop Fortress in the City of Roanoke. Concertina wire and chain link fence surrounded the house on a 20-acre lot. To arm the fortress, the owner maintained a variety of fully automatic Mac-10s, AR-15s with silencers, a pen gun, and an Uzi with a short barrel in addition to a large collection of other weapons. The fortress, weapons, a houseboat, various personal property and notes receivable valued at over \$250,000 were forfeited in civil proceedings to the United States.

District of Columbia. Senator Jesse Helms sought intervention to obtain disclosure of records and tapes arising from the Federal Bureau of Investigation's electronic surveillance of Dr. Martin Luther King, Jr. Senator Helms claimed a need for access to the records and tapes so as to better inform his, and the Senate's, vote on a pending bill to designate Dr. King's birthday as a national holiday beginning in 1986.

This case was one in a series of cases the Civil Division has litigated involving a new and growing phenomenon—Congressmen and Senators claiming to have standing to sue executive branch officials.

The district court denied relief to Senator Helms, finding that the doctrine of circumscribed equitable discretion required dismissal. The court of appeals affirmed, finding that Senator Helms did not have standing. Significantly, the court of appeals commented that the purpose of the Speech or Debate Clause is to shield Members of Congress sued by others based on the Members' remarks, not to serve as a sword to assist Members of Congress *suing* others. This case should serve as an important precedent as other Congressmen and Senators bring suits seeking to curtail executive actions.

The day following the court of appeals' ruling, the Senate passed the King holiday bill by a vote of 90 to three. Two weeks later, President Reagan signed the bill into law.

Environmental Prosecutions

Wyoming. A case in this district involved a challenge by a number of environmental and animal rights groups to the decision of the Secretary of the Interior to allow Marathon Oil Company to drill an oil well in a remote area between Yellowstone National Park and Cody, Wyoming. The well site was located between two wilderness areas, but not within the boundaries of either. Because of restraints placed

upon the drilling operation by the U.S. Forest Service for the protection of grizzly bear habitat, the well had to be drilled during the summer months. There was only one drilling rig on North America that was capable of drilling the wells since another of the restraints was that no road could be built to the well site, and that mobilization would have to be by Chinook helicopter. After a three-day trial, the U.S. District Court for the District of Wyoming refused to grant the injunction sought by the environmental groups. The case is important because it helps to define the limits of the environmental impact statement process. It also establishes that "staged compliance" with the National Environmental Policy Act is an acceptable procedure and that the court may consider litigation measures imposed by federal land management agencies in determining the reasonableness of a secretarial decision to allow drilling.

Montana. An action was brought for injunctive relief by plaintiff tribes to enjoin defendants from endangering the tribe's fishing and appurtenant water rights under the Hell Gate Treaty of July 16, 1855. A severe drought had reduced available water, and controversy arose between the tribe and the 2,600 farmer-irrigators on the reservation. The United States, joined by the irrigators and the State of Montana, resisted the facet of the case which would have interfered with the integrity of the Montana water rights adjudication.

An agreement was worked out between the Federal Irrigation District and the tribe, and the complaint was dismissed on account of mootness. The integrity of *Colorado River Water v. United States*, 424 U.S. 800, deferring water rights adjudication to state courts was maintained.

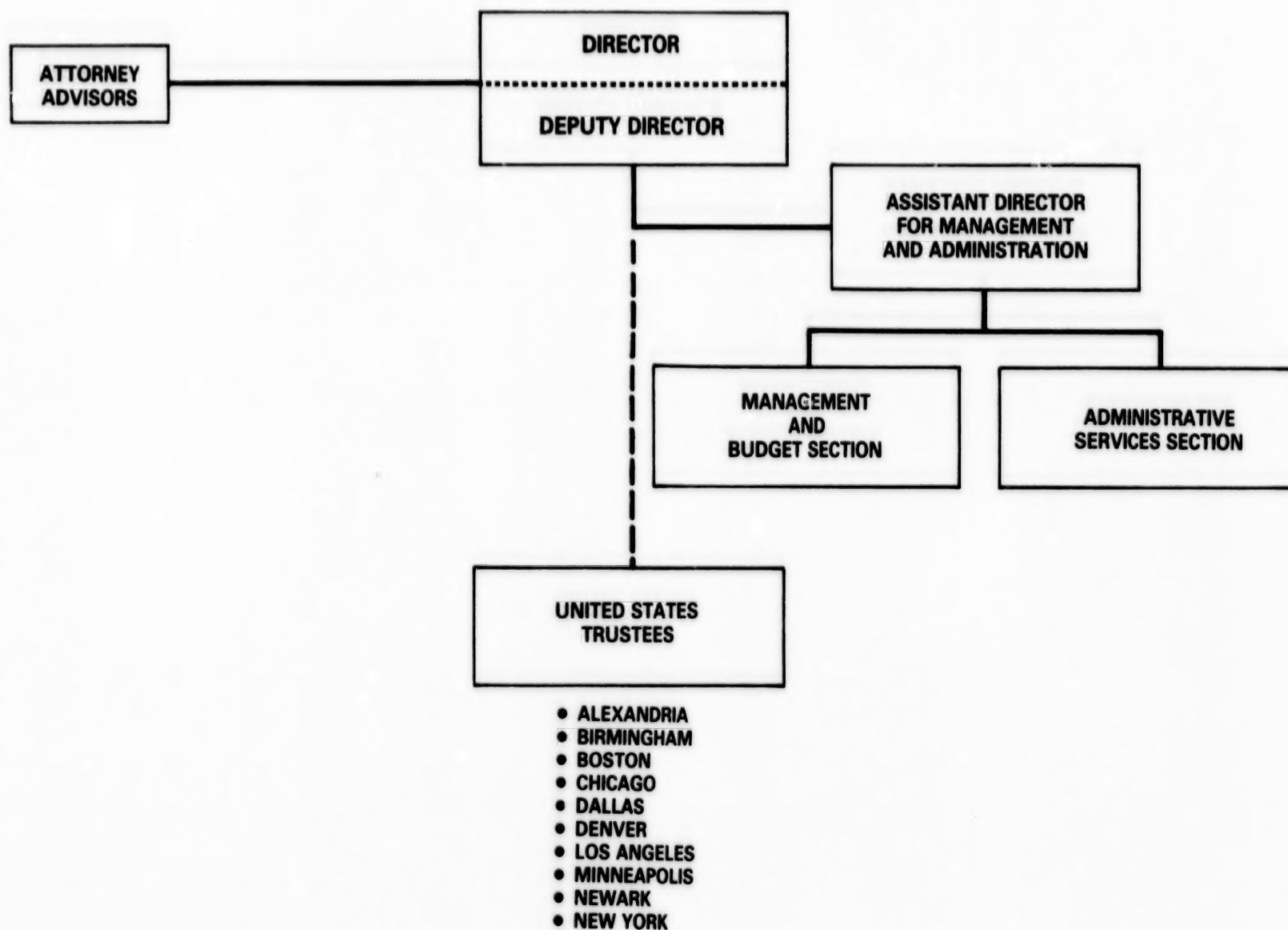
Ohio. In 1982, the Environmental Protection Agency learned that toxic substances had been buried at the new Lyme Landfill in Ashtabula County, Ohio. The site was placed on the National Priorities List, making it eligible for funding under the Superfund.

In order to determine what was buried at the site, and the identities of those responsible, the Environmental Protection Agency sent a request to the landfill's owner that the business records be produced for examination. This request was made pursuant to the Resource Conservation and Recovery Act. When this request was ignored, the United States commenced suit in district court.

In a case of first impression nationally, District Judge Ann Aldrich found that the request for information was judicially enforceable, *United States v. Liviola*, 605 F. Supp. 96 (N.D. Ohio 1985). Review of the records produced has enabled the Environmental Protection Agency to identify over 700 potentially responsible parties. In a subsequent trial, Judge Aldrich awarded the United States over \$15,000 in penalties and costs.

Maine. The district court found that it was not necessary for state and federal officials to have prepared a full-scale environmental impact statement before beginning construction on a \$25 million cargo port facility at Sear Island off the Maine coast. On appeal, however, the First Circuit reversed the lower court and required the filing of an environmental impact statement. Work on the project has been suspended while officials prepare the statement which is expected next year.

EXECUTIVE OFFICE FOR UNITED STATES TRUSTEES



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Executive Office for United States Trustees

Thomas J. Stanton
Director and Counsel

The U.S. Trustee pilot program was established in 18 federal judicial districts to supervise the administration of all cases filed pursuant to chapters 7, 11, and 13 of Title I of the Bankruptcy Reform Act of 1978, 11 U.S. Code 101, *et seq.*, as amended, 1984. In creating the U.S. Trustee system, Congress cited the necessity for separating administrative and adjudicative functions in order "...to afford bankruptcy litigants the fair and impartial justice to which all other litigants in federal courts are entitled." In June 1985, H.R. 2660 was introduced in the House of Representatives to expand the program nationwide on a permanent basis. The bill is currently pending before the Subcommittee on Monopolies and Commercial Law of the Committee on the Judiciary which heard testimony on it in late July.

At present the program consists of 167 full-time, permanent employees located in the Executive Office in Washington, D.C., and 10 field and six branch offices. Each field office is responsible for daily case administration and is headed by a U.S. Trustee appointed by the Attorney General.

The Executive Office provides policy direction, coordination, counsel and administrative support services to the U.S. Trustee offices. The legal services staff of the Executive Office provides support to the U.S. Trustees in the form of legal research, development and coordination of litigation policy, and coordination of legal personnel allocations. The Administrative and Management staffs provide direct support services to the U.S. Trustee offices in the areas of budget and automated information systems; they coordinate the provision of administrative personnel, space, property and facilities support with the Justice Management Division.

Significant Activities in Fiscal Year 1985

The caseload of the program continues to be staggering. In Fiscal Year 1985, approximately 103,350 new bankruptcy cases were filed in the pilot districts. The volume of new chapter 11 cases—the most important cases in terms of size, complexity and impact on jobs, taxes and the economy—reached 5,850.

Despite its limited resources, the U.S. Trustee program has made significant progress in improving the quality and efficiency of bankruptcy case administration. An update conducted in Fiscal Year 1985 of the independent evaluation performed by Abt Associates in 1983, confirmed the positive results of the earlier study and revealed that bankruptcy case

administration in the pilot districts continues to be superior to that in districts without a U.S. Trustee. Primary accomplishments of the program are:

Criminal Referrals

The U.S. Trustees act as "watchdogs" to eliminate fraud, dishonesty and overreaching in the bankruptcy arena. To meet this goal, they work closely with federal, state, and local law enforcement authorities, and refer matters to the appropriate law enforcement organizations for action. One such case involved a series of chapter 11 petitions involving 53 currency exchanges in which Travelers Express and other creditors were defrauded of sums in excess of \$1 million through a complex check-kiting scheme. The principal of the company was convicted and is currently serving a seven-year sentence.

Monitoring Tax Payments

The U.S. Trustee program has been especially effective in preventing debtors in possession from accruing large post-petition taxes such as withholding tax liabilities—funds the Internal Revenue Service may never recover if reorganization efforts are not successful. Each U.S. Trustee office requires the debtor to report on the status of its post-petition taxes, and receives documentary evidence from the debtor that taxes have been paid. Where there are delinquencies, the U.S. Trustees act quickly to remedy the situation. In one district alone, the actions of the U.S. Trustee have saved more than \$1,500,000.

Monitoring of Fees and Applications for Professionals

The offices review applications for the retention of professionals to ensure that the individuals are qualified and that their services are necessary. Applications for the payment of professionals' fees are carefully reviewed, and inappropriate or excessive fee requests are challenged. For example, over the course of a year this monitoring has resulted in a savings of over \$4 million to debtors' estates, and thus to creditors. In one case, the U.S. Trustee's objection to the payment for what were essentially duplicative legal services resulted in a savings of \$325,000, almost 50 percent of the fee requested.

Monitoring Chapter 11 Business Reorganizations

In addition to handling the legal aspects of chapter 11 cases, the offices monitor the financial operations of chapter 11 businesses to prevent dissipation of assets and ad-

ministrative insolvencies. The U.S. Trustees hold conferences with the debtor in possession soon after the bankruptcy filing to gain information quickly and to advise the debtor of his/her responsibilities. Every effort is made to appoint committees of creditors that will actively participate in the case. Where there is no such committee, the U.S. Trustee's office will fill that gap. The offices review debtors' financial reports and conduct status meetings to check on case progress. Where the debtor is not in compliance with U.S. Trustee requirements, or where the review shows that there is little likelihood of successful reorganization, the U.S. Trustee moves quickly to convert or dismiss the case. Disclosure statements are reviewed, statements regarding their adequacy are submitted to the court and the development of successful reorganization plans is fostered.

The 1985 Abt Evaluation found that, as in its initial study, the pilot districts had almost twice as many confirmed plans as the non-pilot districts, and significantly fewer cases with no action.

Supervising the Administration of Chapter 7 Cases

The U.S. Trustee offices appoint, supervise and train panels of qualified individuals to administer liquidation cases. During Fiscal Year 1985, a Directives System was

developed in conjunction with the Justice Management Division's Audit Staff, and implemented programwide. This system requires the submission by panel trustees of periodic financial reports in the cases they are administering, and allows the offices an enhanced capability for tracking the income and disbursements of all chapter 7 estates.

Supervising the Administration of Chapter 13 Cases

The U.S. Trustees appoint and supervise standing trustees who administer chapter 13 cases involving plans of individuals with regular income. In Fiscal Year 1985, a nationwide audit of chapter 13 trustee operations was conducted, and a Directives System for closely monitoring their finances and expenditures was instituted. Standardized budget submissions were implemented to assist the process of setting annual percentage fees and standing trustee compensation. Excess percentage fees charged are returned to the U.S. Treasury, and in Fiscal Year 1985, over approximately \$481,000 in excess fees were collected from the pilot program standing trustees. In 1984, the latest year for which figures are available, \$88,669,932 in chapter 13 funds were the total amount of net disbursements made to the creditors in the pilot districts. (Disbursements during Fiscal Year 1985 are subject to audit and will not be available for quite some time).

Bureau of Prisons

Norman A. Carlson
Director

The Bureau of Prisons is responsible for carrying out the judgments of federal courts whenever a period of confinement is ordered. More than 36,000 individuals are currently in the 46 federal institutions which have levels of security ranging from minimum to maximum. All sentenced offenders who are medically able are required to complete regular daily work assignments. In addition, all offenders have opportunities to participate in self-improvement programs including education, vocational training, work, religion, and counseling. The following are Fiscal Year 1985 highlights:

- The population of the Bureau of Prisons reached an all time high on September 30, attaining a level of 36,042.
- Three federal prisons were accredited by the Commission on Accreditation for Corrections. The total number of institutions accredited is now 37.
- SENTRY, the Bureau's computer-based inmate information system, was expanded to all 46 institutions.
- Inmate employment in Federal Prison Industries reached a record high of 9,955 in September.
- The Federal Correctional Institution in Phoenix, Arizona, received its first inmates on April 1 and was dedicated May 17. The facility will house 500 inmates upon its complete activation in December 1985.
- A former seminary in Loretto, Pennsylvania, purchased in 1984 for use as a Federal Correctional Institution, opened October 31, 1984. The facility will house 300 offenders by April 1986 and will reach its full capacity of 500 by November 1987.

Organization and Administration

The Bureau of Prisons is a career service, with the majority of new employees entering on duty as correctional officers. Administration is carried out by the Central Office, located in Washington, D.C., and five regional offices. The Central Office is comprised of four divisions: Correctional Programs; Administration; Medical and Services; and Industries, Education and Vocational Training. Each division is headed by an Assistant Director.

The five regions are headed by Regional Directors and have headquarters in Atlanta, Georgia; Dallas, Texas; Philadelphia, Pennsylvania; Burlingame (San Francisco), California; and Kansas City, Missouri.

Inmate Population

The population of the Bureau of Prisons attained a record high of 36,042 on September 30, 1985. This number incarcerated at the end of the fiscal year was 41 percent more than the combined rated capacity of the 46 institutions. A year earlier, the population had been 32,317.

Federal court sentencing of offenders to longer terms of confinement for serious crimes, an increase in the number of immigration offenders, and the effort to combat organized crime and drug trafficking continue to contribute to the population increase.

Several measures have been taken to alleviate the population pressures, including construction of new institutions, acquisition of surplus facilities, the expansion and improvement of existing facilities, and expanded use of contract confinement and halfway houses.

Community Programs as Alternatives to Confinement

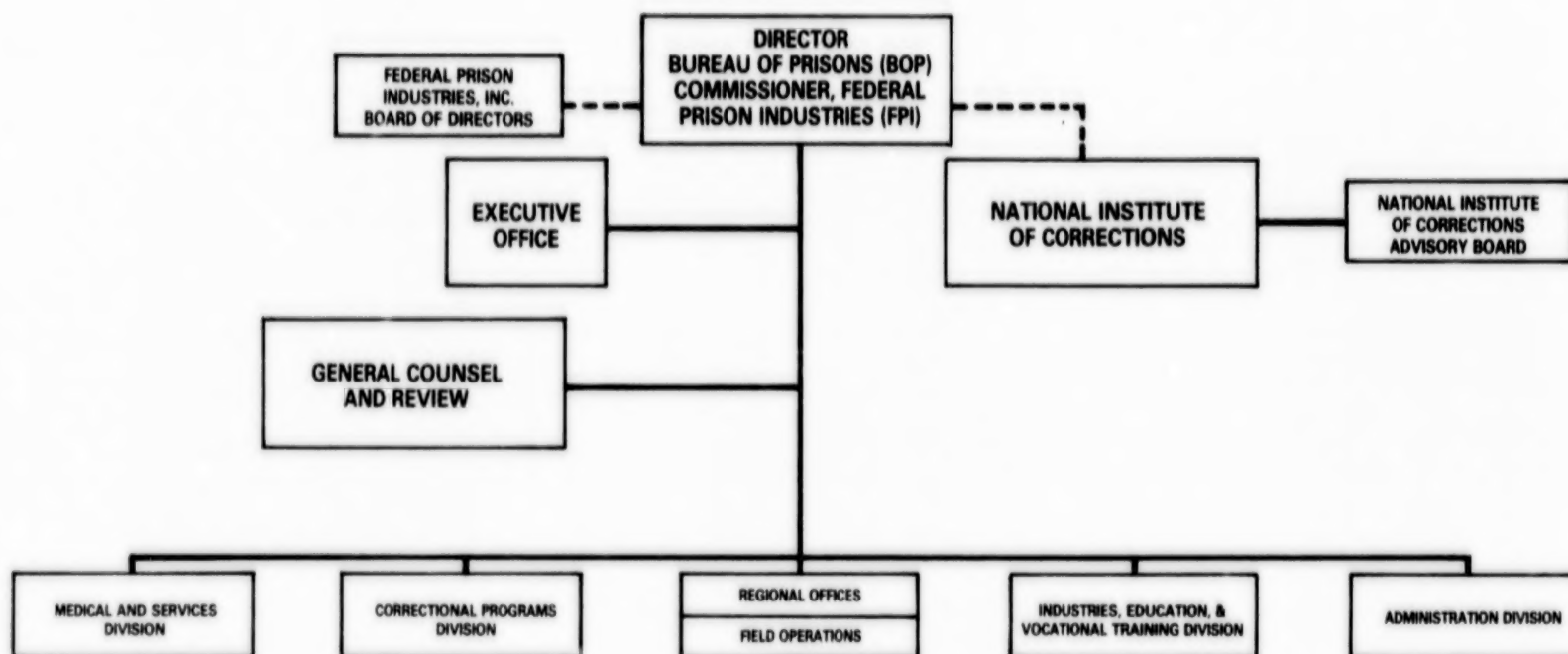
Prison space is a scarce and costly resource, to be used in situations where the interests of society must be protected. Because of the record high prison population in 1985, the use of alternatives to incarceration for nonviolent offenders has been expanded.

During Fiscal Year 1985, approximately 80 percent of eligible offenders released to the community were released through Community Treatment Centers. These Centers are used for offenders near release as a transition back to the home, job, and community. The time is used to find a job, locate a place to live, and reestablish family ties.

The Centers are also used for offenders serving short sentences, for unsentenced offenders participating in the Pre-Trial Service Program, and for offenders under community supervision who need guidance and supportive services beyond what can be provided through regular supervision. At the end of the year, the Bureau had 3,200 federal inmates housed in over 330 contract centers operated by state, local, and private agencies.

The Community Correctional Center project was implemented in Washington, D.C., in 1983. The project uses imprisonment alternatives such as community service, work, and victim restitution, when recommended by the U.S. district court. The Center is available to federal courts in the District of Columbia, Maryland, and Virginia for sentenced offenders who are not a risk to the community and who may

FEDERAL PRISON SYSTEM



be in custody up to one year. During the first eight months of 1985, residents completed 5,261 hours of community service work and paid \$34,282 in subsistence payment. Additional evaluation of the project is ongoing.

A Community Correctional Center opened in Detroit, Michigan, in 1985 and another is being planned for Sacramento, California.

All persons adjudicated under the Juvenile Justice and Delinquency Prevention Act are housed in nonfederal, local, and state juvenile facilities as well as in such facilities as boy's ranches, group or foster homes. Most inmates sentenced to serve less than six months are confined in local jails. There were 1,100 such inmates at the end of Fiscal Year 1985.

Approximately 180 inmates were housed in state prisons at the end of the fiscal year. These inmates are housed in state facilities primarily for protection, as most have cooperated with the federal government in providing court testimony.

Bureau Construction and Renovation

In response to an increasing inmate population, the Bureau continues to expand its housing capacity through the construction of additional housing units and the renovation or construction of new facilities. New housing units of approximately 100 beds each have opened at the Federal Correctional Institutions in Memphis, Tennessee, and Ashland, Kentucky, and at the Federal Prison Camp, Boron, California. Minimum security camps of 100 beds have now been added at the Federal Correctional Institutions in Oxford, Wisconsin, and Petersburg, Virginia. Housing unit expansions are under design or construction at the Federal Correctional Institutions in Milan, Michigan; Seagoville, Texas; Miami, Florida; Butner, North Carolina; Tallahassee, Florida; Texarkana, Texas; La Tuna, Texas; and the Federal Prison Camp, Allenwood, Pennsylvania, that will add approximately 1,000 beds to the capacity of the Bureau of Prisons.

New institutions are being planned for Marianna, Florida; Fairfield Township, New Jersey; Bradford, Pennsylvania; and Sheridan, Oregon. The earliest opening date for these facilities is scheduled to be in April 1988. These projects will add approximately 2,200 beds for medium security inmates and 500 beds for minimum security or special cases.

Two facilities which will not directly alleviate the overcrowding problem in the Federal Prison System will be opened soon. The Federal Detention Center in Oakdale, Louisiana, will house 1,000 Immigration and Naturalization Service cases when it opens in early 1986. A 500-bed Metropolitan Correctional Center in Los Angeles, California, will soon be under construction and is scheduled for completion in October 1988.

Major renovations continue at the U.S. Penitentiaries in Leavenworth, Kansas, and Atlanta, Georgia. The Mariel Cubans present a significant problem to the overall plan for

Atlanta. Revisions to that plan call for major work done only outside of the cell houses with interior cell-house renovations being delayed.

Professional Standards

The Bureau of Prisons strives to acquire and maintain correctional accreditation for all its facilities, ensuring that correctional programs and operations are carried out in a humane and professional manner. In Fiscal Year 1985, the Commission on Accreditation for Corrections awarded three initial accreditations and five reaccreditations to federal institutions. This brings to 37 the total number of facilities accredited for three-year terms and includes 15 reaccreditations.

Automated Information Systems

The Bureau of Prisons expanded the use of SENTRY, its computer-based inmate information system, to all 46 institutions during the Fiscal Year 1985. Information from SENTRY is now available in all offices throughout the Bureau. The system monitors inmates in federal institutions and federal inmates in contract facilities, plays an integral part in the inmate designation process and also has a sentence computation capability.

Major enhancements to SENTRY in 1985 were new sentence monitoring and designations modules, improved data security, and a capacity to display rosters of inmates on buses and airlifts. Plans for Fiscal Year 1986 include the implementation of a prototype minicomputer system at the Federal Medical Center, Rochester, Minnesota, the replacement of Sycor telecommunications equipment, on-line availability of the Bureau's population report, a capacity for mass loading of inmate admission and release information, and several other system enhancements.

The Electronic Mail System component is an important communication link between the Bureau, U.S. Parole Commission, U.S. Marshals Service, Office of Enforcement Operations (Criminal Division), U.S. Attorneys and the Division of Probation.

Federal Prison Industries, Inc.

Federal Prison Industries, Inc., with the corporate trade name UNICOR, is a wholly-owned government corporation which sells its products and services to other federal agencies. UNICOR's mission is to support the Bureau of Prisons through the gainful employment and training of inmates in diversified work programs.

Forty percent of all eligible inmates and 28 percent of all inmates confined in the Federal Prison System were employed by Federal Prison Industries at the end of Fiscal Year 1985. The 75 industrial operations located in 40 institutions constructively employ inmates and assist in preparing for employment opportunities upon release. Inmate employ-

ment in UNICOR rose from 9,000 at the end of Fiscal Year 1984 to 9,995 at the end of Fiscal Year 1985.

Gross sales this Fiscal Year were \$239 million. Inmate industrial wages increased from \$14 million in 1984 to \$16.2 million in 1985. The Corporation funded \$6.39 million in vocational training programs, including apprenticeship training and experimental vocational programs. Occupational training is also offered through UNICOR and includes on-the-job training, vocational, education, and apprenticeship programs. There are 312 formal training programs in various trades offered in federal institutions. Apprenticeship programs, registered with the U.S. Department of Labor's Bureau of Apprenticeship and Training, exist in 34 institutions.

The sales of UNICOR products and services also fund payments to inmates who work in nonindustrial assignments involving institutional maintenance and operations. These payments increased from \$5.4 million in 1984 to \$5.6 million during Fiscal Year 1985.

An active program of industries plant modernization and expansion began in 1983 and will continue through Fiscal Year 1986. The program will include 54 projects at 41 institutions. UNICOR will invest more than \$40 million in this program, which will provide for potential employment of over 2,700 additional inmates in prison industries and will ensure modern production capacity far into the future.

An innovative quality enhancement program continued this year in industries, with the goal of professionalizing and enhancing quality production systemwide. UNICOR staff trained at the Quality College in Winter Park, Florida, have conducted training at eight field installations, as well as the Central Office, and are preparing to provide assistance to states through the National Institute of Corrections.

Education and Training

The Bureau of Prisons provides academic and occupational training programs to prepare inmates for employment upon release. Although enrollment is voluntary, program options are extensive, ranging from adult basic education through college courses. Occupational training programs include accredited vocational training and apprenticeship programs, as well as prevocational and world-of-work courses, and work and study release.

The Federal Bureau of Prisons implemented a mandatory literacy policy for its inmates in 1983. This policy requires all federal prisoners who function below a sixth grade education level to enroll in the adult basic education program for a minimum of 90 days. All promotions in Federal Prison Industries and in institution work assignments are contingent upon achieving a sixth grade literacy level.

The adult basic education program has been very successful. Enrollment exceeded 10,000 in Fiscal Year 1985 and there were over 5,000 completions. Certificates for com-

pletion of the General Education Development program were awarded to over 2,600 inmates.

The Bureau's occupational training program includes on-the-job training, pre-industrial training, vocational education, and approved apprenticeship programs. Twenty-eight pre-industrial programs in 23 institutions prepare inmates for employment in Federal Prison Industries.

Federal Prison Industries allocated \$3 million for experimental vocational training efforts in emerging job opportunity fields. Projects were funded to provide job training in such fields as computer sciences, business, diesel mechanics, water treatment, petroleum technology, graphic arts, and food service. Approximately 3,000 students completed these courses in 1985 and another 3,000 completions are projected for 1986.

To operate these programs in 46 institutions, the Federal Prison Industries allocated approximately \$23 million for Fiscal Year 1985. The education program is staffed by 500 employees.

Equal Employment Opportunity

Over 31 percent of all new Bureau of Prisons employees in 1985 were members of minority groups and 29 percent were women. Minorities now constitute 25 percent of all employees, compared to eight percent in Fiscal Year 1971, when the Bureau first implemented a minority recruitment program.

Women are making significant advancements in traditionally male-dominated positions. Today women comprise 21 percent of the work force compared to 11 percent in 1971. College and specialty recruitment continue to be the major sources for ensuring representative applicant pools.

Female Offenders

The Bureau of Prisons continues to focus on improving programs and services for female offenders. It operates four co-correctional facilities and one all female institution, located in Alderson, West Virginia.

The Federal Correctional Institution, Lexington, Kentucky, serves as the medical and psychiatric referral center for women with acute physical or emotional problems. The Children's Center and Pregnant Women's Shelter Home programs are also available when children are born to incarcerated women at the Federal Correctional Institution, Pleasanton, California.

Eleven apprenticeship training programs have been accredited by the Women's Bureau of the U.S. Department of Labor, Bureau of Apprenticeship and Training. These programs assist in preparing women for such non-traditional jobs as auto mechanics, electricians, plumbers, painters, and brick layers. Sixty-two apprenticeship programs are offered for women in 39 different trades.

Medical Care

The Bureau of Prisons provides a range of medical and dental services to meet the needs of a confined population. In a majority of cases, medical care is provided within the prison setting. Community facilities are used to supplement this care as necessary. The primary medical referral centers in the Bureau are located in Springfield, Missouri; Butner, North Carolina; Lexington, Kentucky; Rochester, Minnesota; and Terminal Island, California.

The Federal Medical Center in Rochester was opened in Fiscal Year 1984. Upon its full activation in the spring of 1986, the facility will add 110 medical and surgical beds and 128 psychiatric beds to the capacity of the Bureau of Prisons. There will also be 128 outpatient beds for medical, surgical, and psychiatric cases. A special Chemical Dependency Unit, with a capacity of 30 beds, will be available for chemically dependent patients and will provide evaluation and treatment services. This new major referral center will provide medical services to both male and female inmate patients. The Center will obtain professional medical assistance from the Mayo Clinic, also located in Rochester.

National Institute of Corrections

The National Institute of Corrections was established by Congress in 1974 to assist state and local corrections agencies. The Institute is governed by a 16-member Advisory Board and is administered by a director who is appointed by the Attorney General.

A total of \$15,434,000 was awarded in 154 grants and contracts to state and local corrections agencies, organizations, and individuals during the fiscal year. The awards were for training, technical assistance projects, research and evaluation, policy and program formulation, and clearinghouse activities.

The institute responded to 758 requests for technical assistance from state and local agencies in 49 states and the District of Columbia. These efforts led to improved physical design and conditions in state and local institutions, improved recordkeeping and information management, and

advancements in many other areas of correctional management and programming.

In Fiscal Year 1985, institutional overcrowding prevailed as the most critical problem in the field of corrections. The Institute addressed crowding by assisting state and local corrections agencies in planning and designing new institutions, strengthening community corrections programs, and providing technical assistance to jurisdictions facing severe crowding.

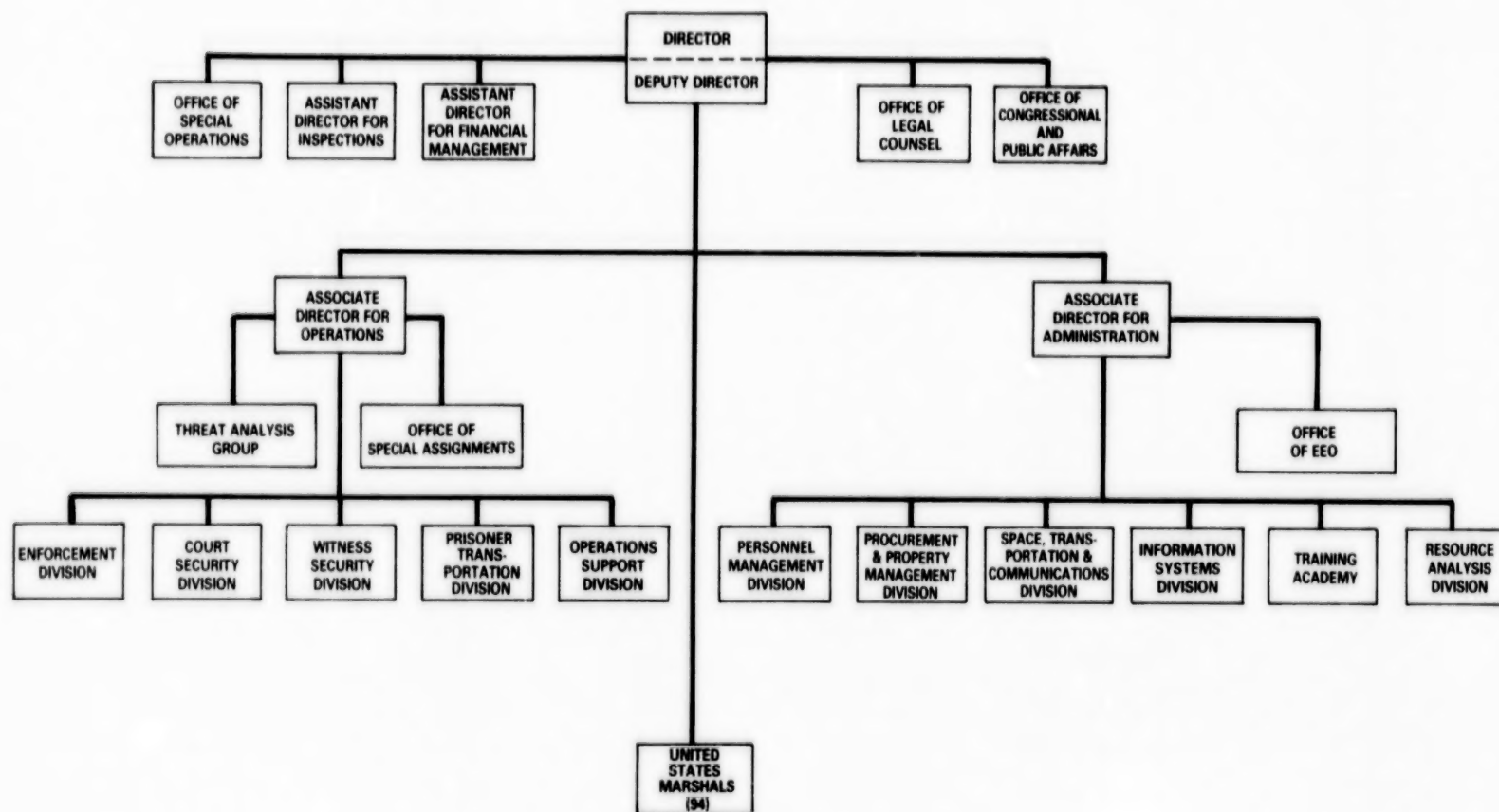
The Institute's Information Center provided information in response to more than 6,500 inquiries from federal, state, and local practitioners during the year and continued to serve as a central source of practical, readily retrievable information on corrections.

The National Academy of Corrections, the training arm of the Institute, provided training for approximately 2,100 managers, administrators, and staff trainers during the year. The Academy also sponsored the participation of 163 state and local personnel at Bureau of Prisons training programs. Off-site, agency-based training was provided for almost 500 staff trainers, who subsequently provided the same training for nearly 18,000 correctional staff in those agencies. Training needs were also met through grants and technical assistance to state and local agencies.

The Congress appropriated an additional \$1.5 million to the National Institute of Corrections for Fiscal Year 1985 to continue work in the areas of basic education and vocational training programs for inmates, a focus which began the preceding year with a supplemental appropriation. The program provided technical assistance and grants to states to develop literacy programs and computer-based and computer-assisted training, and training for prison education administrators.

An additional \$3 million appropriated to the Institute at the end of Fiscal Year 1984 was directed to improving offender classification systems, providing additional training for correctional personnel, and easing the national prison and jail crowding problem.

UNITED STATES MARSHALS SERVICE



United States Marshals Service

Stanley E. Morris
Director

The U.S. Marshals Service is the nation's oldest and most versatile federal law enforcement agency. Since 1789, U.S. Marshals have carried out a variety of vital criminal justice missions for the executive and judicial branches of government. Virtually every federal law enforcement initiative involves the U.S. Marshals Service and its primary responsibilities which include:

- Protecting federal judges and court officials;
- Apprehending criminal fugitives;
- Protecting and relocating federal witnesses;
- Executing court orders;
- Transporting, and providing security and care for prisoners awaiting federal court action;
- Providing for custody, maintenance, and disposal of seized and forfeited property and assets; and
- Performing special law enforcement functions requested by the Attorney General or other federal agencies.

From its beginning nearly 200 years ago, the U.S. Marshals Service has grown from the original 13 U.S. Marshals appointed by George Washington on September 26, 1789 to 94 U.S. Marshals today supported by an organization of over 2,500 civil servants. The Director of the U.S. Marshals Service reports to the Attorney General and works closely with all federal, state, and local law enforcement agencies.

U.S. Marshals and Deputies cooperate with state and local officers in tracking and apprehending fugitives, providing security at high-threat trials, and transporting and securing detention for prisoners. In return, the Service provides financial support, particularly for jail construction and renovation, and a variety of law enforcement training courses.

U.S. Marshals and Deputies are on duty in all federal judicial districts throughout the United States, Puerto Rico, the Virgin Islands, Guam and the Northern Mariana Islands. Each district office is managed by a U.S. Marshal and a Chief Deputy U.S. Marshal.

Court Security

Ensuring the integrity of the federal judicial process by providing personal protection to federal judges and court officials is a principal mission of the U.S. Marshals Service. Court Security personnel provide technical assistance to the U.S. Marshal and the federal judiciary in all phases of high-

risk judicial proceedings, threats, judicial conferences, courtroom security, and courthouse security.

In Fiscal Year 1985 there were 240 verified threats made against members of the federal judiciary, an increase of 56 percent over 1984.

In addition to maintaining security at district court criminal trials, the U.S. Marshals Service also must meet the equally important and potentially volatile task of providing security at U.S. Magistrate hearings that include both criminal and civil issues.

While the Service is not mandated to provide security support at all civil trials, it does provide security at trials in which a potential exists for violence in the courtroom. During 1985, there were 135 sensitive trials (an increase of 3 percent over 1984) which required technical assistance for civil proceedings; and there were 43 petit juries (an increase of 35 percent over 1984) which resulted in sequestration orders because of threats or disruption to judicial proceedings.

In 1985, security and technical assistance were also provided for 57 protective details, an increase of 90 percent over 1984. These protective details ranged from under 72 hours to over two years and many of them resulted from threats on judicial officials and their family members. There were also 14 protective assignments providing security for Supreme Court Justices. Security was also provided for 39 judicial conferences in 1985.

Court Security and Witness Security personnel also cooperated during 1985 to develop a judicial security training program to meet the unique security needs of the Grenada government.

In support of the federal judiciary, the Service also developed and awarded a national contract for the acquisition, installation and maintenance of judicial security systems. This was the first contract in the Department's history to be awarded under the auspices of the Office of Management and Budget Circular A-109, Major Systems Acquisition. With the strong support and assistance of the Administrative Office of the U.S. Courts, the Service also developed and awarded contracts for 828 Court Security Officers to provide judicial security protection at 233 court facilities nationwide. These Court Security Officers provide protective services for the federal judiciary at the entrances of court facilities and other ancillary space used by the judges and other officers of the court.

Enforcement

The duties of the Service include primary federal responsibility for the tracking and apprehension of fugitives. In Fiscal Year 1985, the Service arrested or located 12,388 fugitive felons; which included 14 of the U.S. Marshals Service "15 Most Wanted" fugitives. These overall arrests included Service assistance to other federal law enforcement agencies by arresting or locating 3,612 fugitives wanted on felony indictment warrants.

The U.S. Marshals Service has always relied heavily upon the cooperation and assistance of state and local authorities in apprehending fugitives. Today the Service is capitalizing on these cooperative efforts with Fugitive Investigative Strike Teams, better known as FIST operations. Composed of federal, state, and local law enforcement officers, the FIST team frees up law enforcement manpower to concentrate for a short period of time exclusively on the arrest and apprehension of fugitives. Working as equal partners, team members take record numbers of criminals off the street.

On June 19, 1985, the U.S. Marshals Service concluded its most extensive and successful manhunt ever. This FIST operation resulted in 3,816 arrests in a 10-week period by a 212-member task force of local, state, and federal officers. It involved 38 Florida law enforcement agencies and 11 foreign countries, including Canada, several Caribbean countries, two Central American countries, Puerto Rico and the Virgin Islands.

This operation combined Deputy U.S. Marshals with local law enforcement officers from departments throughout Florida and agents from the Florida Department of Law Enforcement. In addition, the Bureau of Alcohol, Tobacco, and Firearms, Immigration and Naturalization Service, the U.S. Border Patrol and representatives from numerous foreign countries contributed officers to this highly successful fugitive effort. The command post for this FIST operation was located in Miami, Florida. The Caribbean command site was located in St. Thomas, U.S. Virgin Islands. The international portion of the FIST effort resulted in the arrest of 73 fugitives who had fled to foreign countries after committing serious crimes in the United States. It clearly demonstrates the ability of law enforcement agencies to cross national boundaries in pursuit of dangerous fugitives wanted by the United States.

Also in 1985, the U.S. Marshals Service formed a special unit, at the direction of the Attorney General, to determine the location of Nazi war criminal Dr. Josef Mengele. Throughout the four-month investigation, U.S. Marshals Service personnel worked closely with West German and Israeli authorities in investigating leads throughout the world. In late June, investigators located the body of Wolfgang Gerhard in Brazil. The Service's investigation was

successfully concluded with the announcement by Attorney General Edwin Meese III that, "...based on the best information available from the forensic examination by an international team of experts, the Department of Justice's position is that the body of Wolfgang Gerhard, exhumed by Brazilian authorities, is in fact Josef Mengele."

Witness Protection

The Witness Security personnel of the U.S. Marshals Service are responsible for the protection of key federal and state witnesses whose lives have been threatened by virtue of their willingness to provide government agencies with information essential to the prosecution of organized crime. Physical relocation, change of identity, employment assistance, and a variety of other services are provided to assist program participants in establishing a self-sufficient life style in a secure environment. Nearly 200 new principal witnesses entered the Witness Security Program in 1985. During the same period, the U.S. Marshals Service provided protection and funding for 1,897 principal witnesses and their families.

Witness Security personnel also continued to provide personal protection throughout 1985 for high-level government and international officials. These security assignments included hearings and meetings of the President's Task Force on Organized Crime, as well as continuing support of the Department of State during meetings of the United Nations General Assembly.

On September 26, 1985, Deputy Attorney General D. Lowell Jensen joined the U.S. Marshals Service Director for the groundbreaking of the Witness Security Assessment Center in the Washington, D.C., metropolitan area. When completed in the fall of 1986, this 28,000-square-foot facility will serve as the central intake processing center for all Witness Security Program participants. The combination of state-of-the-art security equipment with appropriate living accommodations will make this safesite the most innovative security facility for law enforcement in the world. This facility will complement the Witness Security safesites already in operation in the Los Angeles, New York City, and Miami areas.

Prisoner Transportation

The Service operates the National Prisoner Transportation System for the transportation, coordination, and custody of federal prisoners from the time they are apprehended until they are incarcerated to serve the sentence imposed. This System is an important, vital activity in support of the courts and the prison system throughout the nation. The National Prisoner Transportation System scheduled and accomplished 61,500 prisoner movements in 1985. Moreover, the Service managed 52,000 additional in-district movements during the same period. This is an increase of

approximately 6 percent over the previous year while prisoner transportation funding remained constant.

In 1985, continuing its efforts in the difficult and often dangerous mission of prisoner transportation, the U.S. Marshals Service expanded the Service-owned Air Program by deploying two aircraft in the District of Alaska and by expanding its fleet in the continental United States. This expansion included the acquisition at no cost to the government of a Boeing 727 jet aircraft. Use of this aircraft, which is over three times as cost-effective as the replaced equipment, will permit doubling the prisoner transportation service provided to the federal criminal justice community while reducing Bureau of Prisons direct operating costs and reducing to a significant degree institutional space required for holdover prisoners.

National Asset Seizure and Forfeiture

The identification, seizure, and forfeiture of assets bought with the proceeds of drug trafficking and organized crime has become a key part of the federal government's efforts to combat these criminal activities. U.S. Marshals Service responsibilities for the management and disposal of seized and forfeited properties and assets continued to grow in 1985. To deal with the asset management problems and needs associated with the enormous rise in the volume and complexity of government seizures and forfeitures the Service established the National Asset Seizure and Forfeiture Program.

A Headquarters program unit and personnel in 14 field offices work with local U.S. Marshals to ensure that assets subject to forfeiture are managed in a manner which is efficient, cost-effective, and in the best interests of the United States.

During 1985, the U.S. Marshals Service was involved in the seizure of property appraised at more than \$143 million. Total property under Service control in civil and criminal forfeiture actions amounted to more than \$313 million at the end of 1985. There is no "typical" seizure. Where the great majority of seizures has always involved conveyances, recent expansion of forfeiture statutes combined with increased willingness and expertise in pursuing forfeitures has led to the seizure of a wide variety of other types of property. Significant workload increases have been experienced in managing growing numbers of seized residential and commercial real properties. Overall, the U.S. Marshals Service handled seized and forfeited properties ranging from horse farms, a recording studio, a commercial bank, an historic mansion, retail stores and other commercial operations, exotic birds, dogs and livestock, and a host of other items of value purchased with the proceeds of illegal activities.

Prisoner Detention

To meet the prisoner detention requirements of the Service, the Bureau of Prisons and the Immigration and Naturalization Service, the U.S. Marshals Service awarded 158 and administered a total of 823 Intergovernmental Detention Service Agreements with state and local units of government. The Service also awarded 16 new Cooperative Agreement Program contracts totaling over \$10.5 million to state and local authorities. The funds are provided for local jail construction and renovation in exchange for guaranteed bed space for federal prisoners. The 1985 Agreements resulted in 604 spaces for federal prisoners. Since 1982, the Service has provided a total of \$44.3 million for 62 Cooperative Agreement Program Agreements and 2,723 guaranteed bed spaces. The Service also provided \$1.4 million worth of excess federal property to 117 detention facilities during 1985.

Threat Analysis

Based upon a second year of experience in the field of threat analysis, and the experiences of other agencies with like responsibilities, threat assessment techniques were refined during the year and were focused on the more serious, complex situations involving danger to U.S. Marshals Service protectees or Service personnel. To support the systematic collection and processing of vital threat intelligence, Threat Coordinators were designated in each of the 94 district offices and standardized reporting of threat information was instituted. In addition to their regular duties, the Deputies and Investigators selected as Threat Coordinators were assigned the responsibility for collecting and disseminating threat intelligence necessary to the development of appropriate security countermeasures. Liaison with other law enforcement and intelligence community organizations was strengthened to provide timely and detailed information upon which to base threat assessments and support high-risk operations involving dangerous criminal and terrorist organizations.

Onsite intelligence support was provided to U.S. Marshals Service operational elements assigned to high-threat missions. Most notable was the deployment of a terrorist case officer to support the Service's Special Operations Group during security operations in Puerto Rico after the arrest of key members of the Macheteros terrorist group. This operation also marked the first time that Service personnel were assigned to the Emergency Operations Center at Federal Bureau of Investigation Headquarters.

Design of a Crisis Management facility was jointly developed with the Special Operations Group, and a formal Crisis Management Plan was prepared, a new initiative of the Service.

Federal, state, and local law enforcement officers throughout the country were trained in a number of seminars focusing on dangerous motorcycle gangs, and a course on violence-prone groups was developed for the Service's training program on fugitive operations to be offered to state and local officers.

Special Operations

The Special Operations Group is a highly trained and disciplined law enforcement unit consisting of Deputy U.S. Marshals who volunteer for this duty. The Group has the capability to respond to emergency situations anywhere in the continental United States within a few hours and to provide law enforcement and security assistance to other federal and state agencies.

The Special Operations Group conducted and hosted numerous training sessions at its Training Center located at Camp Beauregard in Pineville, Louisiana. It provided tactical training for three classes of U.S. Border Patrol agents; conducted a Special Operations Group basic school; two advanced Stress Training Reaction in Violent Encounters courses for senior U.S. Marshals Service managers; and hosted two Hostage Negotiations seminars for U.S. Marshals Service operational personnel. Special Operations Group staff personnel continued to provide tactical training to Service districts as well as to state and local law enforcement agencies.

The Special Operations Group was called out for a variety of important 1985 missions including: FIST VIII, Puerto Rico detail involving the Macheteros (terrorist group), and the Federal Aviation Administration's anti-skyjacking and counter terrorist support program. On numerous occasions, the Group provided U.S. Marshals Service districts with operational planning and security assistance during sensitive court trials.

Personnel Management

One of the Service's major objectives in 1985 was to develop and begin implementation of a fitness program. The Service was successful in creating its Fitness-in-Total Program which sets physical standards that all new operational personnel must maintain. Approximately 125 employees were trained in fitness techniques and are responsible for the Fitness-in-Total activity in their districts.

Another Service objective for 1985 was to improve and increase managerial training for Service employees. The required supervisory class for new first line supervisors was redesigned to include more training in general management techniques and more practical exercises concerning everyday management responsibilities. The advanced management class for second line supervisors was redesigned in the same manner. Additionally, in-house classes in personnel and

financial management have been offered on a voluntary basis to all management personnel within the districts.

A major recruiting drive for Deputy U.S. Marshals was initiated in 1985. New recruiting brochures and other literature were designed and published. Approximately 8,000 applicants were tested nationwide in March 1985, and an estimated 1,000 applicants were scheduled for panel interviews. Approximately 240 Deputy U.S. Marshal recruits were hired during the year.

Finally, during 1985, the Service began a program to hire Detention Officers to replace Deputy U.S. Marshals in routine cell block and prisoner transportation duties.

Training Academy

The training programs of the U.S. Marshals Service remain centered in its Training Academy at the Federal Law Enforcement Training Center, Glynco, Georgia. The Academy trained a record 1,671 students during 1985, realizing a 52 percent growth in training output and surpassing the preceding year's record total of 1,227 students.

In a continuing effort to meet the operational programs and generalized responsibilities of Service personnel, the Training Academy has completed its overall curriculum changes for advanced deputy training. As a result, approximately 170 Deputy U.S. Marshals were afforded the opportunity to receive protective service certification while obtaining comprehensive training in such areas as legal issues, electronic security equipment, fugitive investigations, and high-threat trial security.

As a result of expansion of Court Security duties, the Academy provided 13 orientation classes for 619 contract Court Security Officers as well as preparing and distributing in-district training material for advanced in-service training.

In addition to these significant accomplishments, the Service concluded the largest training effort in its history by completing its forth seminar contracted with Calibre Press, Inc., training the last 272 of its 1,122 journeyman deputies and inspectors in Street Survival Tactics.

Equal Employment Opportunity

The Equal Employment Opportunity Advisory Committee held quarterly meetings to discuss improvements and/or changes to policies and procedures that may adversely affect women and minorities. Among other accomplishments the Advisory Committee formulated a U.S. Marshals Service policy relating to pregnant law enforcement personnel and reestablished the Cooperative Education Program as a continuing effort to attract qualified minorities.

In addition, the Spanish Language Training Program for Service personnel was established and is being operated at the Federal Law Enforcement Training Center in Glynco, Georgia.

Information Systems

In 1985, the U.S. Marshals Service completed implementation of the Prisoner Population Management System and the District Accounting System which stores all pertinent prisoner, scheduling, and contract jail billing information in eight prototype districts. This District Automation Project is designed to automatically produce all monthly reports by entering the daily disbursements and collection transactions. Based on the experience of these eight prototype districts, the Service will be conducting a cost and benefit study and evaluating technical alternatives.

The first phase of the Warrant Information Network, which stores information on all U.S. Marshals Service class one warrants and updates National Crime Information Center data, was successfully installed in three districts during 1985. The Service also completed development work on the Employee Skills Data Base System and is currently testing employee questionnaires in two districts. This System will automate data on employees' language skills, weapons

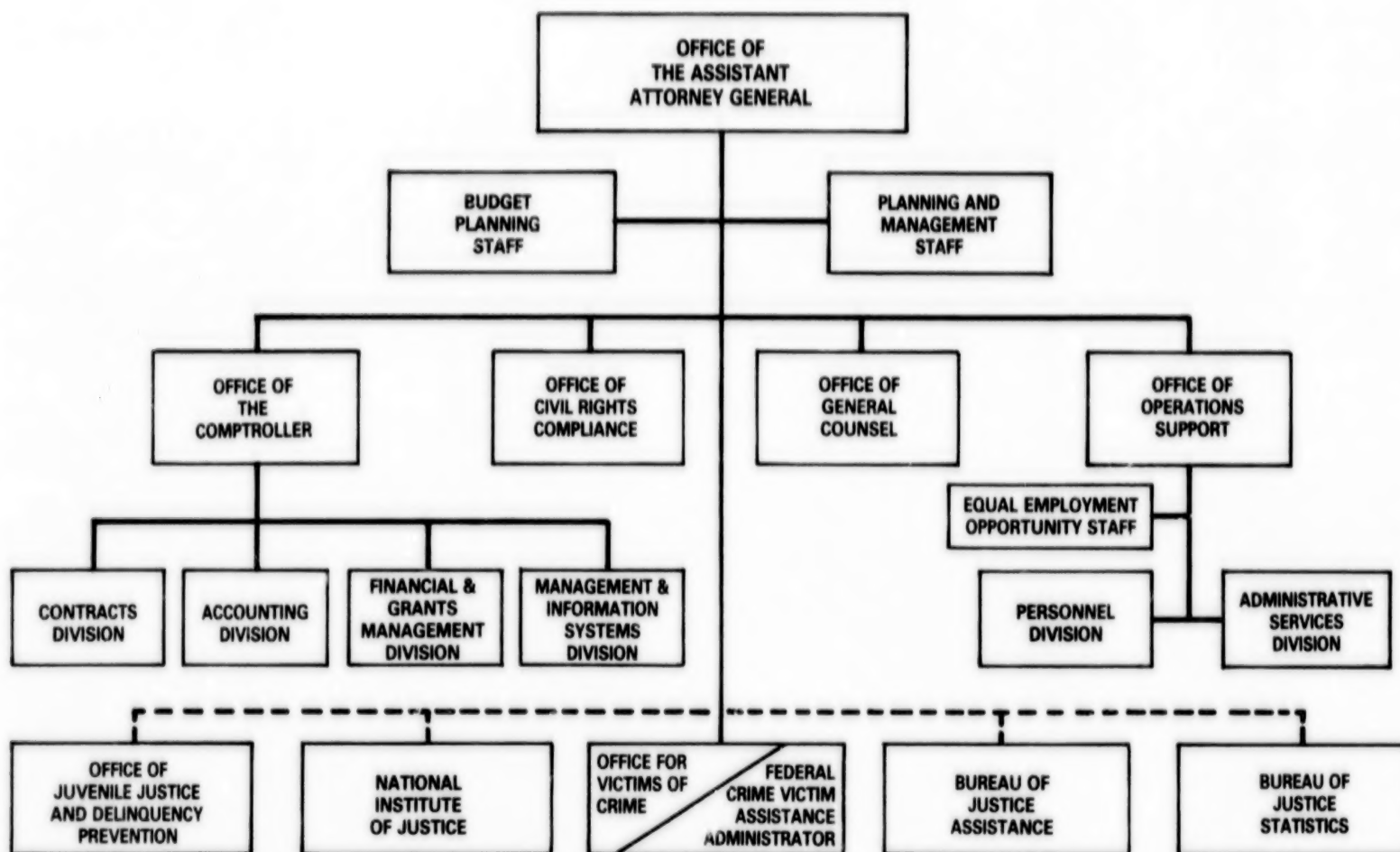
qualifications, and special skills to allow for the rapid identification of employees qualified for special assignments.

Resource Analysis

Resource Analysis personnel provide staff support and assistance for management planning through special studies, gathering of management and statistical data, and conducting workload trend analysis and other analytical studies.

The flexibility of the new data collection system was tested in November 1984 when Resource Analysis was charged with determining if the Comprehensive Crime Control Act of 1984 was impacting on the workload of the Service. An initial survey in November 1984 showed that some districts had been impacted as early as the last two weeks of October. A recurring monthly report was then designed and implemented to gather data from all 94 districts in four previously uncollected data elements. This data enabled the Service to demonstrate the immediate impact of the Comprehensive Crime Control Act on the resources of the U.S. Marshals Service, and the federal criminal justice system.

JUSTICE ASSISTANCE ACT AGENCIES OFFICE OF JUSTICE PROGRAMS



Note: DOTTED LINES INDICATE GENERAL AUTHORITY, POLICY COORDINATION, AND ADMINISTRATIVE SUPPORT THAT THE ASSISTANT ATTORNEY GENERAL PROVIDES TO THESE OFFICES.

Justice Assistance Act Agencies

On October 12, 1984, President Reagan signed into law the Justice Assistance Act of 1984 as part of the Comprehensive Crime Control Act of 1984. The Justice Assistance Act restructured the criminal justice research and statistics units of the Department of Justice and established a new program of financial and technical assistance to state and local governments.

The Act established an Office of Justice Programs, headed by an Assistant Attorney General, to coordinate the activities of the National Institute of Justice, the Bureau of Justice Statistics, the Office of Juvenile Justice and Delinquency Prevention, and a newly created Bureau of Justice Assistance. These agencies operate under the general authority of the Attorney General.

The Fiscal Year 1985 appropriation for the Justice Assistance Act agencies was \$145.5 million. The allocation was as follows:

- \$70,240,000 for Juvenile Justice and Delinquency Prevention programs.

- \$19,500,000 for Research, Evaluation and Demonstration programs.
- \$16,766 for Justice Statistical programs.
- \$5,500,000 for State and Local Assistance. This is in addition to the \$64,800,000 appropriated in Fiscal Year 1984 for the new state and local assistance program. Because the authorizing legislation had not been enacted, the funds were unspent and available in addition to the Fiscal Year 1985 appropriation.
- \$8,301,000 for the Public Safety Officers' Benefits Program.
- \$4 million for the Office of Juvenile Justice and Delinquency Prevention Missing Children's Program.

The appropriation also included \$5 million to reimburse states for the cost of incarcerating Mariel Cubans in correctional facilities and it provided \$16,234,000 in management and administration funds for the Justice Assistance program units.

Office of Justice Programs

Lois Haight Herrington Assistant Attorney General

The Office of Justice Programs (OJP) was established by the Justice Assistance Act of 1984 which was a part of the Comprehensive Crime Control Act signed by President Reagan on October 12, 1984.

The Justice Assistance Act restructured the criminal justice and statistics units of the Department of Justice and established a new program of financial and technical assistance to state and local governments.

OJP coordinates the activities of and provides staff support for the National Institute of Justice, the Bureau of Justice Statistics, the Office of Juvenile Justice and Delinquency Prevention, and a newly created Bureau of Justice Assistance. In addition, it is responsible for maintaining a liaison with the executive and judicial branches of the federal and state governments in matters relating to criminal justice. In this regard, in Fiscal Year 1985 OJP conducted a series of four regional briefings on the financial assistance programs under the Justice Assistance and Victims of Crime Acts of 1984 for state and local agency personnel.

Within OJP is the Office for Victims of Crime which is responsible for implementing the recommendations of the President's Task Force on Victims of Crime and the Attorney General's Task Force on Family Violence, and administering the Crime Victims Fund and the Federal Crime Victim Assistance Program under the Victims of Crime Act of 1984.

Office for Victims of Crime

The Office for Victims of Crime develops and directs programs to facilitate implementation in the states of the recommendations for improving the treatment of victims made by the President's Task Force on Victims of Crime and the Attorney General's Task Force on Family Violence. The Office provides leadership to states and localities through the award of grants and contracts designed ultimately to balance the system of justice by recognizing that victims are an integral part of the criminal justice process who must be afforded the fairness, respect, and courtesy that they deserve.

The Office also is responsible for administering the Crime Victims Fund established under the Victims of Crime Act of 1984. Grants from this Fund are made to the states to provide financial assistance to state victim compensation programs and projects providing services to crime victims. The Office also administers the Federal Crime Victim Assistance program under the Victims of Crime Act, and operates the

National Victims Resource Center, a clearinghouse on victim information.

The program strategy calls for the development and support of projects at the national level that will influence or otherwise greatly enhance the implementation of the Victims Task Force recommendations. This strategy was dictated by the reality that the bulk of the Task Force recommendations are capable of being implemented only at the state and local levels.

Consequently, the initial national scope priorities included the development of training packages on victim subjects for various criminal justice personnel and the preparation of model legislation in response to 12 legislative enactments proposed for the states by the Victims Task Force.

The first priority is the development and implementation of training packages for law enforcement officials and prosecutors. These training packages will track the Task Force recommendations and concentrate on informing prosecutors and law enforcement officials about the needs of victims and how these individuals can better serve victims as they perform their duties within the criminal justice system. To this end, the Office has awarded grants to carefully selected national constituency groups, such as the National District Attorneys Association, the National College of District Attorneys, the National Sheriffs' Association, the National Association of State Directors of Law Enforcement Training and the National Organization of Black Law Enforcement Executives, to provide training and technical assistance to their members on victim issues and services.

The second priority is the development of legislation that will be offered to the states as models for the 12 legislative enactments proposed by the Task Force to help crime victims. The Task Force recommended that each state enact a statute to ensure that the addresses of victims and witnesses are not made public in court routinely, absent a clear need, to prevent harassment. It also recommended enactments in the states to designate victim counseling as legally privileged and to modify bail laws to better protect the public, which would include denying bail in cases in which a defendant is found to be a danger to the community.

As another example, we have recently completed a model statute for consideration by the states that will, as urged by the Victims Task Force, make available to businesses and organizations the sexual assault, child molestation, and pornography arrest and conviction records of prospective and present employees whose work will bring them into regular contact with children.

Grants have been awarded to the American Bar Association, the National Association of Attorneys General, and the Center for Women Policy Studies. A recent grant to the National Organization for Victim Assistance (NOVA) will enable NOVA to continue its effective support to state networks of victims service providers. The Office for Victims of Crime cosponsored a Sexual Assault Symposium with the Federal Bureau of Investigation at the FBI Academy which brought together law enforcement officials, staff from rape crisis centers, judges, physicians, prosecutors, and forensic scientists to discuss techniques for combating sexual assault and how to provide better services to victims of sexual assault.

Grants also have been awarded to the National Judicial College to provide training for judges on victim issues as part of its regular teaching curriculum, and to the National Center for State Courts to fund training for state court administrators on victim issues.

The Office for Victims of Crime has begun an effort to encourage the states to use model rape evidence kits and protocols, as recommended by the Victims Task Force, and plans to develop model protocols for hospitals to follow in the handling of all crime victims.

Model statutes to assist the states in adopting the legislative enactments proposed by the Task Force are in the final stages of development.

The Office staff has completed the program guidelines and initiated the grant application process to fully implement the Victims of Crime Act. The Fiscal Year 1985 Crime Victims Fund established in the U.S. Treasury by the Act will provide over \$23 million in federal financial assistance to the 39 states having active victim compensation programs and approximately \$40 million to all the states and territories to enhance public and private nonprofit programs that provide direct services to crime victims.

The National Victims Resource Center has established and maintains two computerized data bases: a listing of victims programs in the states and a legislative directory that lists pending and enacted victim related bills in the states. The National Victims Resource Center has answered over 2,000 reference and informational requests from criminal justice agency officials, victims groups, national and state constituency organizations, state and local governments, students and universities, community organizations, staff of federal agencies, and victims seeking help.

The Federal Victims Assistance Administrator was appointed to oversee the federal victims program under the Victims of Crime Act. Major efforts now underway include establishing victim assistance training programs for federal prosecutors and federal law enforcement officials, developing a model victim/witness assistance program, and establishing procedures for monitoring compliance with the

Attorney General's Guidelines for Victim and Witness Assistance.

The Family Violence Section has concentrated its efforts on the spouse abuse, child abuse and child molestation aspects of family violence. A cooperative agreement was made to the National Coalition Against Domestic Violence to develop and distribute public awareness information on spouse abuse, including a directory of shelters and a listing of model programs.

In addition to the award of funds, the Family Violence Section has led an effort to involve other agencies, groups, and organizations in both the private and public sectors in family violence issues. In this regard, it has worked closely with the other bureaus within OJP, the Department of Health and Human Services, the Department of Defense, the Department of Housing and Urban Development, and various foundations to address those family violence related activities for which they have authority.

Office of General Counsel

The Office of General Counsel provides legal advice to the agencies authorized by the Justice Assistance Act, the Victims of Crime Act, and the Juvenile Justice and Delinquency Prevention Act, as amended. The Office represents these agencies in administrative hearings, including grant denial hearings, Merit Systems Protection Board hearings, civil rights compliance appeals, and grievance arbitrations.

The Office advises on legal questions arising under grants, contracts, and the statutes and regulations governing the expenditure of federal grant or contract funds. The Office also is responsible for drafting agency regulations and reviewing audit findings.

During the past year, the Office was actively involved in implementing the Justice Assistance Act of 1984, the Juvenile Justice Act Amendments and the Victims of Crime Act of 1984.

Office of Civil Rights Compliance

The Office of Civil Rights Compliance monitors compliance with the civil rights responsibilities of the recipients of criminal justice system financial assistance under the Justice Assistance Act of 1984, the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, and the Victims of Crime Act of 1984.

This includes enforcement of Title VI of the Civil Rights Act of 1964; Section 809(c) of the Justice Assistance Act of 1984; Section 504 of the Rehabilitation Act of 1973, as amended; the Age Discrimination Act of 1975, as amended; Title IX of the Education Amendments of 1972; and the implementation of these statutes (28 Code of Federal Regulations, Part 42).

No post-award compliance reviews were conducted during this fiscal year. Pre-award reviews were conducted on 38 grant applications of \$500,000 or more and special conditions appended where necessary. In addition, 48 block grant applications from states were reviewed.

Although 129 allegations of civil rights noncompliance were received during this fiscal year, only six were docketed for investigation. The balance were referred to other federal agencies, where appropriate, or closed for want of funding under the Justice Assistance Act, the Juvenile Justice Act, or the Victims of Crime Act.

Office of Congressional and Public Affairs

The Office of Congressional and Public Affairs is responsible for promoting effective communications with the Congress, the news media and the general public, and for advising the agencies in intergovernmental affairs.

The Office works with Members of Congress, committees, and their staffs on legislative matters affecting the agencies and the criminal justice community. The Office is responsible for preparing testimony on legislation before Congress affecting criminal justice matters and the agencies, and for the preparation of bill reports and the tracking of legislation of interest in the House and the Senate.

The Office prepared numerous press releases covering activities of the agencies and conducted news conferences throughout the year. As the agencies' Freedom of Information Act office, the Office of Congressional and Public Affairs is responsible for making all grants and other nonexempt documents available for inspection or possible reproduction. The Office also publishes Justice Assistance News which is distributed to interested criminal justice professionals, research institutions, schools, colleges, and universities, as well as members of the public. The Office of Congressional and Public Affairs prepares speeches, briefing materials and statements for agency officials and keeps public interest groups informed of activities of interest to their members.

Office of the Comptroller

The Office of the Comptroller is the principal advisor to the Assistant Attorney General, Office of Justice Programs, on resource management, information systems, and internal controls.

It provides policy guidance, control, and support services for the offices and bureaus in accounting, grant management, procurement, claims collection, and automated data processing. It also provides financial management technical assistance to grantees.

One major project completed by the Office during Fiscal Year 1985 was reconciliation of all state letter-of-credit accounts. Those awards totaled \$6.281 billion and dated back to 1969.

The Office of the Comptroller also strengthened grantee cash management and fiscal integrity requirements in 1985. This has resulted in recovery of excess cash in the hands of grantees and a reduction of cash on hand for grantees and deobligation of available funds.

Office of Operations Support

The Office of Operations Support is responsible for directing and coordinating all activities concerning administrative support, personnel management, and equal employment opportunity programs for the agencies.

The Personnel Division provides employee and personnel management services to all components of the agencies. This includes the recruitment, selection and placement of all employees, position classification, and employee development and training. It also represents management in labor-management matters.

The Administrative Services Division is responsible for the management and provision of security, furnishings, telephone systems, equipment, maintenance, office space, mail services, safety and health programs, records and mail management, graphic support and printing. In addition, the Division assists the agencies' grantees in obtaining excess federal personal property.

The Equal Employment Opportunity staff provides support for the full range of equal employment opportunity programs and the operations of the equal employment opportunity grievance systems.

Planning and Management Staff

The Planning and Management Staff provides support and Assistance to OJP in its planning, coordination, and management activities. It advises the Office of the Assistant Attorney General with regard to strategy and priority options for achieving goals and objectives.

During Fiscal Year 1985, the Staff developed a reorganization proposal in order to structure the OJP in accordance with the Justice Assistance and Victims of Crime Acts of 1984. The proposal was reviewed by the Attorney General, the Office of Management and Budget, and Congress and permission to begin implementation of the reorganization was given in April 1985.

In addition during the year, the Staff was involved in the following significant activities:

- Coordinated internal control activities for all agencies. Vulnerability assessments were conducted of 23 func-

tions/programs and four Internal Control Reviews were conducted.

- Coordinated the development and implementation of audit resolution policy and procedures; provided staff support to the Audit Review Committee; and maintained liaison with the Department of Justice Audit Staff and the General Accounting Office.
- Coordinated the OJP Directives/Forms System; developed necessary requirements and standards; and

provided technical assistance to bureaus and offices in developing, preparing, and clearing their directives.

- Updated OJP handbooks, guidelines, regulations, and directives to reflect the changes necessitated by the new legislation.
- Coordinated OJP's implementation of Executive Order 12372, Intergovernmental Review of Federal Programs.

Bureau of Justice Assistance

Mack M. Vines
Director

The Justice Assistance Act of 1984 (Public Law 98-472) assigns to the Bureau of Justice Assistance (BJA) responsibility for administering the Criminal Justice Block Grant Program (Part D of the Act), the Discretionary Grant Program (Part E), the Criminal Justice Facility Construction Program (Part F), and the Public Safety Officers' Death Benefits Program (Part L).

The Bureau also has been delegated by the Assistant Attorney General authority to administer the Regional Information Sharing System program which provides funds appropriated by Congress for regional law enforcement information systems; the Prison Industry Certification Program under which state and local corrections programs are exempted from statutory marketing restraints on the sale or distribution of goods and services produced in the prison or jail facility; the Surplus Federal Property Program which provides for the no cost transfer to state or local governments of surplus property required for correctional facilities or programs; the Emergency Federal Law Enforcement Assistance Program which provides federal assistance to jurisdictions experiencing a law enforcement emergency (for example, the Atlanta child murders); and the Mariel Cuban Reimbursement Program which provides compensation to the states for expenses incurred by the incarceration of Mariel Cubans.

Criminal Justice Block Grants

As authorized by Part D of the Justice Assistance Act, BJA provides block grants to the states for use by state and local governments for programs that have a high probability of improving the criminal justice system, with emphasis on violent crime and serious offenders. Section 403(a) of the Act enumerates 18 purposes for which block grant funds may be used, including community crime prevention, victim assistance, identification and prosecution of serious offenders, and information systems. In Fiscal Year 1985, \$55.5 million was available for block grants. Funds are allocated among the states on the basis of population.

To participate in the Block Grant Program, the Governor of a state must designate a state office that is responsible for preparing the application and administering the funds. Forty-nine states, Puerto Rico, the Virgin Islands, and the District of Columbia have elected to participate. Kansas is the only state that has declined. Under the Act, the Bureau must make direct grants to the units of local government in Kansas from that state's share of the 1985 block funds.

The Bureau has identified 11 programs that meet the high probability criteria of the Act and has certified that these programs are eligible for block grant support.

These are: Community Crime Prevention; Property Crime (STING) Program; Arson Prevention and Control; Court Delay Reduction; Career Criminal Prosecution; Victim Assistance; Jail Overcrowding/Alternatives to Pretrial Detention; Treatment Alternatives to Street Crime; Prosecution Management Support System; Restitution by Juvenile Offenders; and the Integrated Criminal Apprehension Program.

Discretionary Grants

Discretionary grants can be made to public and nonprofit agencies for any one of four legislative purposes: 1) education and training of criminal justice personnel; 2) technical assistance to states and local governments; 3) demonstration programs; and 4) national or multistate projects.

Priorities for the Discretionary Grant Program are for combined technical assistance and training in support of the approved block grant programs; demonstration programs that develop new models and concepts; and national scope projects, such as the national crime prevention campaign and law enforcement accreditation. Victims programs also have been included as a priority.

Emergency Federal Law Enforcement Assistance Program

Sections 609(M) and (N) of the Justice Assistance Act authorize federal assistance to a state or local jurisdiction experiencing a criminal justice emergency that is beyond the capacity of the state or local government to resolve.

The assistance provided may be in the form of funds, technical assistance, equipment, and personnel. BJA is prohibited from providing assistance for efforts involving crowd control and scheduled public events, including political conventions and sports events. Applications for emergency assistance must be submitted by the Governor of the effected state and approved or disapproved by the Attorney General within 10 days of submission.

Public Safety Officers' Benefits Program

The Public Safety Officers' Benefits Program provides a \$50,000 lump sum, tax-free benefit to the eligible survivors of federal, state, and local public safety officers killed in the line of duty. These include law enforcement officers, fire fighters, prison guards, probation and parole personnel and judicial officials. Volunteer fire fighters and reserve police

officers also are covered. On October 1, 1984, the division began coverage of federal public safety officers. The fiscal year statistics show that 277 line of duty deaths were reported to the Public Safety Officers' Benefits Program and that 226 of these were approved for a total of \$11.3 million. Since the start of this program on September 26, 1976, 2,693 line of duty deaths have been reported to the Public Safety Officers' Benefits Program, of which 1,944 were approved, with awards totaling \$97.2 million.

Regional Information Sharing System

The Regional Information Sharing System program provides on a regional basis a shared information and resource mechanism that facilitates coordination and communication in the investigation and prosecution of criminal activity. There are six regionally based Regional Information Sharing System projects covering all 50 states. Each project has a centralized intelligence data base, an analytical capability, a wide area telecommunications capability, specialized investigative equipment, a confidential fund reserve, and training and technical assistance programs.

In addition to the Regional Information Sharing System program, the LEVITICUS project is an operationally oriented shared management and resource effort targeted against coal fraud in the Appalachian Region. It is funded under the Regional Enforcement Program, a program specifically designed to incorporate the shared enforcement and prosecutorial management approaches into an operationally oriented project.

State Reimbursement Program for Incarcerated Mariel Cubans

The purpose of this program is to reimburse states for the cost of incarcerating Mariel Cubans in state facilities following felony convictions. The funding level for Fiscal Year 1985 was \$5 million. All funds were awarded on April 1, 1985, as legislatively mandated.

Federal Surplus Property Program

The Federal Property and Administrative Services Act of 1949 was amended by the Surplus Federal Property Amendments of 1984 to allow the transfer or conveyance to states, the District of Columbia, the Commonwealth of Northern Mariana Islands and the Territorial Islands, as well as any political subdivisions, surplus real or related personal property determined by the Attorney General to be required for correctional facility use under a corrections program approved by the Attorney General.

Technical assistance and descriptive materials, including the Program Application Kit, were provided to the approximately 300 attendees at four regional meetings for state and local agency personnel on the Justice Assistance Act and Victims of Crime Act held in March 1985.

As of July 15, 1985, BJA had responded to 153 individual inquiries. Two properties were recommended for transfer. The first, in Iberia Parish, Louisiana, will be used by Iberia Parish as a minimum custody confinement facility for individuals with alcohol, drug abuse, or mental health problems.

The second property was a portion of the U.S. Army Reserve Center, located in Kearny, New Jersey. It will be used as the site for jail annex to relieve the severe overcrowding that exists in the Jersey City facility.

Private Sector/Prison Industry Enhancement Certification Program

Section 819 of the Justice Assistance Act continues the Prison Industry Enhancement Certification Program originally authorized by the Justice System Improvement Act of 1979. This Program provides exemption from federal constraints on the marketability of nonfederal prison made goods by permitting the sale of these products in interstate commerce and to the federal government. Up to 20 nonfederal prison industry projects may be certified for this exemption when their operation has been determined by the BJA to meet statutory and guideline requirements. Projects in Kansas, Utah, Minnesota, Arizona, and Nevada have been certified.

Other Programs

The Bureau of Justice Assistance also manages four other major programs. These are:

Criminal Justice Facility Construction Pilot Program. The Justice Assistance Act authorizes the BJA Director to make grants to states, units of local governments, and combinations of such units, to assist in the construction of correctional facilities and in planning to relieve overcrowding and substandard conditions in correctional facilities. The Act also authorizes the operation of a clearinghouse on the construction and modernization of correctional facilities. However, no funds have been appropriated for the program.

Community Crime Prevention Program. This Program supports the National Crime Prevention Council's nationwide crime prevention campaign that features the dog "McGruff" and the slogan "Take a Bite Out of Crime." The Council provides information and technical assistance to states, local governments, and communities in effective crime prevention programs that enable citizens and police to cooperate in the prevention of neighborhood crimes.

State Court System Management and Improvement Program. This Program manages a grant to the National Center for State Courts to aid in court delay reduction, jury management improvement, technology introduction in the courts, research and information services, and training in court administration. There also is a victim assistance component in each of the Program areas.

National Judicial Training Program. Grants were awarded to the University of Nevada, National Council of Juvenile and Family Court Judges, and the National

Judicial College to advance victim concerns, develop training materials on victim assistance for judges and other court personnel, and provide technical assistance on victim issues.

Bureau of Justice Statistics

Steven R. Schlesinger
Director

The Bureau of Justice Statistics (BJS) collects, analyzes, publishes, and disseminates statistical information on crime, victims of crime, criminal offenders, and the operations of justice systems at all levels of government. The Bureau also provides financial and technical support to state statistical and operating agencies and analyzes national information policy on such issues as the privacy, confidentiality, and security of data and the interstate exchange of criminal records.

Methodological Evaluation

During the year, the Bureau completed major projects to assess and evaluate the methodology used in the nation's two most important statistical series on crime, the National Crime Survey and the Uniform Crime Reporting program.

During 1985, the study of the Uniform Crime Reporting program, undertaken in cooperation with the Federal Bureau of Investigation was completed. A set of recommendations were developed which culminated in a report entitled, *Blueprint for the Future of the Uniform Crime Reporting Program*. Planning for implementation is currently underway.

The National Crime Survey redesign project was a total reassessment of the design, administration, and potential uses of the survey. Planned changes include improvements to the survey instrument to provide greater information regarding characteristics of criminal victimization incidents, victims, the experience of victims with the criminal justice system, and long-term consequences of victimization. A completely revised strategy for eliciting victim reports of crime incidents also will be implemented.

Data Analysis and Dissemination

The Bureau maintains an ongoing internal analytic capability to provide the Administration, the Congress, and the public with timely and accurate data concerning problems of crime and the administration of justice in the nation. The Bureau prepared and disseminated 39 reports and data releases during the year, a 44 percent increase over the previous year.

During Fiscal Year 1985, work began on the second edition of the Report to the Nation on Crime and Justice. The Bureau's monthly bulletins, begun in 1981, present data generated in the various statistical series. Prepared in a nontechnical format, each contains the most current information on particular aspects of crime or the administration of justice from the Bureau's ongoing statistical series. The Special Reports, begun in February 1983, also written in

nontechnical language, are aimed at a broad audience. The Special Reports are monthly publications; each is devoted to a topic of current public interest and policy debate.

Victimization Data

The Bureau's largest statistical series is the National Crime Survey—the nation's only systematic measurement of crime rates using national household surveys. The National Crime Survey measures the amount of rape, robbery, assault, personal larceny, household burglary and larceny, and motor vehicle theft experienced by a sample of the U.S. population. It provides detailed data about the characteristics of victims, victim-offender relationship, and the criminal incident, including the extent of loss or injury and whether the offense was reported to the police.

In April 1985, the Bureau released findings that showed a continued downturn in victimization rates in 1984; overall, the 1984 crime rate was 4.5 percent lower than in 1983, which itself was the lowest year since the Survey began 12 years ago. In June 1985, the Bureau released, for the fifth year, the findings of a National Crime Survey indicator measuring the proportion of American households touched by crime; it has revealed that victimization by crime is one of the most common negative life events that a family can suffer. Topical National Crime Survey studies released during Fiscal Year 1985 included those on household burglary, rape, and the risk of violent crime.

Law Enforcement Statistics

Recognizing that very little national-level police administrative and management data exist, BJS commissioned a study of the need for such data, including recommendations as to what types of data should be collected. A second phase of this effort involves an analysis of existing data sets of police statistics, a survey of small police agencies about their data needs, the development of a survey questionnaire and handbook for a national collection effort, a discussion of various sampling designs and a pretest of the proposed survey. A BJS Special Report is scheduled for December 1985 that will examine police expenditures over the last two decades.

Adjudication Statistics

During the year, work was begun to update the sampling list of general jurisdiction courts that is needed to support an anticipated sample survey. The current plans call for producing disposition data on an annual basis, supplemented by periodic surveys that would provide more detailed infor-

mation on the characteristics of defendants, offenses, trial outcomes, and sentencing practices. A supplement to the state court model statistical dictionary was issued to assist state court personnel in developing comparable data. A BJS Bulletin, *The Growth of Appeals*, was published covering 1973-83.

The May 1985 Special Report, *Felony Sentencing in 18 Local Jurisdictions*, reported on the use of different kinds and degrees of sanctions for seven major felonies for a variety of large jurisdictions across the country. The Prosecution of Felony Arrests Project collects and analyzes case processing data from prosecutors' offices. During the year, *The Prevalence of Guilty Pleas*, covering 14 jurisdictions, was published. In addition, BJS is sponsoring a study to determine the feasibility of developing a national pretrial data base.

Correctional Statistics

This program provides systematic data on correctional populations and agency workloads covering probation, local jails, state and federal prisons, parole, and persons under sentence of death.

The National Probation Reports series provides annual data, by state, on the number of admissions to probation supervision and the year end total of persons under such supervision. The Uniform Parole Reports Program, begun in 1965, provides data on the populations and characteristics of persons admitted to and released from parole supervision. The Program also gathers information from states annually on legislative and administrative changes likely to affect the time sentenced and served in correctional institutions.

During 1985, the first release of data from the 1983 National Jail Census and National Jail Inmate Survey was made, revealing a 41 percent increase in the jail population since the last census in 1978. Also during the year, the Census of State Prisons was conducted, covering 922 state-operated correctional facilities and the Survey of State Prison Inmates was pretested. The Census covered topics such as facility operations, density and occupancy rates by facility, staffing, expenditures, disorders, and court orders. When fielded in early 1986, this Survey will review approximately 15,000 inmate criminal histories, demographic characteristics, drug and alcohol use, etc.

The National Prisoner Statistics series provides yearend and mid-year counts, by jurisdiction, of prisoners confined in state and federal institutions. National Prisoner Statistics reports during the year documented the continued growth in the population of the nation's prisons: by June 30, 1985, a record high of 490,041 was reached. In July 1985, the second report of data was made from a new program to gather information on the characteristics of offenders admitted to or released from prisons—the National Corrections Reporting Program.

Examining Recidivism, the February 1985 Special Report, found that 28 percent of those who entered prison in 1979 would still have been in prison at the time of their most recent admission if they had served their maximum prior confinement sentence. In July 1985, the Bureau released *The Prevalence of Imprisonment*, which reported that between 3.2 and 5.1 percent of males born in the United States today are likely to serve a sentence in an adult state prison at some time in their lives.

Expenditure and Employment Statistics

During Fiscal Year 1985, the first reports on justice expenditure and employment using a revised, less expensive methodology were issued. The August 1985 Bulletin, *Justice Expenditure and Employment 1982*, reported that less than three percent of all government spending was for justice activities. Three other reports were issued during the year, including a trends report for 1971-79 and a report presenting data for 1980 and 1981.

Also during the year, work began in preparation for collecting Fiscal Year 1985 data using an earlier methodology that will provide the data needed for the variable pass-through provisions of the state and local assistance block grant formula program, as well as more detailed substantive and geographic data in general.

Federal Statistics

A major priority during Fiscal Year 1985 was the continued development of the Federal Justice Statistics Data Base tracing offenses from investigation through prosecution, adjudication, and corrections. The data base includes input from the Federal Bureau of Investigation, Drug Enforcement Administration, U.S. Attorneys, U.S. courts, and Bureau of Prisons. This represents the first time that federal justice data have been incorporated in a single data series. During the year Pre-trial Release and Misconduct, containing statistics from the federal data base, was released. Additional reports were issued on Electronic Fund Transfer Fraud and Victim/Witness Legislation.

Privacy, Confidentiality, and Information Policy

The Bureau continued activities to ensure the confidentiality of statistical data and the privacy and security of criminal history information. During the year, two publications on information policy and legislation were released.

State Statistical and Systems Programs

The Bureau's state statistical programs have a twofold purpose: to enhance the capabilities of the states in developing policy-relevant statistical information to meet their own needs, and to make state-level data available to the Bureau for national compilations and studies.

Through the Bureau's support, 44 state Statistical Analysis Centers for criminal justice have been established.

They provide statistical services and policy guidance to the Governors, executive branch agencies, legislators, state and local criminal justice agencies, the judiciary, the press, and the public. In addition, the Statistical Analysis Centers provide data to the Bureau for statistical compilations and analyses.

During Fiscal Year 1985, grants and cooperative agreements were awarded to four states to continue the development of Statistical Analysis Centers that had been started recently, and partial support was given to established Statistical Analysis Centers in 26 states, primarily for serving as clearinghouses for criminal justice statistical information. Nine cooperative agreements also were awarded with individual Statistical Analysis Centers for specific projects in statistical analysis and research on topics of importance to the states.

In past years the Bureau has supported the development of State Uniform Crime Reporting systems in approximately

40 states, to improve the completeness and quality of data submitted by local police agencies to the Federal Bureau of Investigation. During the year, awards were made to four states to assist them in continuing the effective operation of systems already in place.

An important recent development is analysis by the Bureau of Offender-Based Transaction Statistics (OBTS) data provided by the states. With OBTS, offenders are tracked through the state criminal justice system, from arrest to final disposition. A report, *Tracking Offenders: The Child Victim*, was prepared and published, using OBTS data from six states. Additional states are expected to provide data for a second report to be published in the coming year.

Other reports issued during the year that were based on data provided by the states were *Sentencing Practices in 13 States* and *Returning to Prison*.

National Institute of Justice

James K. Stewart
Director

The National Institute of Justice (NIJ) serves as a national criminal justice resource, funding research programs and developmental projects to provide policy-relevant information about crime and criminal justice issues and to assist criminal justice practitioners and policymakers in selecting the most effective solutions to urgent needs in the criminal justice field. The National Institute gives priority to such key policy concerns as career criminals, victims of crime, and prison and jail crowding. In conjunction with major research efforts, the Institute also has a small, in-house research capability that examines significant issues such as the effect of the exclusionary rule on felony prosecutions, the impact of mandatory confinement of drunk drivers and federal sentencing policy. The following highlights Institute research during Fiscal Year 1985:

Neighborhood Crime Control

A major Institute experiment is identifying neighborhood-police crime prevention techniques that can reduce the fear of crime that undermines so many communities. The Institute is evaluating the results of the experiment and the findings will be disseminated to communities throughout the country. The experiment, carried out in Newark and Houston, used existing public, private sector, and neighborhood resources in each city. Other useful ideas for promoting productive police-community action against crime are expected to emerge from Institute sponsored evaluations of Neighborhood Watch and Crime Stoppers.

The need for citizens to act positively against crime and involve themselves in the criminal justice system has been dramatized through an Institute supported national public service announcement campaign, "Report, Identify, Testify." Because nearly half of all violent crimes go unreported, the four 30-second television commercials bring home the point that when citizens call the police to report, identify, and testify about a crime, they are enhancing public safety. The commercials are being made available to television stations throughout the country.

Drugs and Crime

Because research has shown that offenders commit more crimes when they are using drugs, urinalysis is being used to detect drug use among arrestees in Washington, D.C., and New York City in a field test funded by the Institute. While the evaluation of this project is still underway, preliminary findings show that 62 percent of arrestees had used one or more serious, illegal drugs at the time of their arrest. This test is assessing the degree of risk posed by drug abusers

while on pretrial release and comparing the effectiveness of surveillance and treatment policies as deterrents to drug usage and subsequent rearrest.

The forfeiture of illegally gained assets has the potential to cut deeply into organized drug trafficking. The Institute completed research on the use of forfeiture sanctions in drug cases. The report detailed information on current forfeiture provisions that apply to drug cases in the laws of all 50 states and included policy recommendations to assist local prosecutors in expanding the use of forfeiture sanctions.

A pilot study has been initiated to collect information on high-level drug trafficking through interviews with convicted dealers incarcerated in federal prisons.

Such information can help criminal justice agencies assess the effectiveness of present strategies to disrupt drug trafficking through incarceration of high-level drug dealers and to develop more effective approaches to the interdiction of the drug trade.

The Institute has funded a study of a low-cost local program to control street crime through enhanced law enforcement efforts aimed at retail heroin trafficking. The program appears to have greatly reduced rates of robbery and burglary in Lynn, Massachusetts. The study will gather additional information on how much crime is actually prevented, rather than displaced, to what extent such strategies can be duplicated in other communities, and how cost-effective these methods are in reducing property crime.

School Crime

In response to a recommendation of the Attorney General's Task Force on Violent Crime, the Institute developed and launched a school crime and student misbehavior reduction project. The program was carried out in conjunction with the Department of Education in 44 secondary schools during 1983-1985 in Florida, California, and Illinois and currently is being implemented in the Milwaukee School System. The program emphasizes clarifying the rights and responsibilities of school officials regarding criminal incidents and applying law enforcement crime analysis techniques to trace crime and disciplinary infractions within the school setting.

A resource package including the report *Reducing School Crime and Student Misbehavior: A Problem Solving Strategy* is being prepared so other school systems can learn more about adopting the program.

Domestic Violence

Disputes involving spouses or family members often pose severe problems for law enforcement authorities. Although mediation is the common procedure used by the police, Institute sponsored research conducted in Minneapolis found that arrest was twice as effective in preventing future assaults than either mediation or ordering the assaulter from the premises. Replication of this study in several larger and more diverse urban centers will provide the basis for further assistance to law enforcement agencies in their continuing development of policy and practice in domestic assault cases.

Treatment of child witnesses in a criminal justice system oriented to adults is another pressing concern. Many child abuse cases do not proceed to prosecution because of concerns about the child's performance on the witness stand. The Institute's *When the Victim is a Child* reviews strategies to alleviate stress for a child testifying in court. As a follow-on to this research, the Institute is taking an exploratory look at the issues involved in the use of a guardian *ad litem* in criminal court cases that involve child victims who must testify.

Victims

In Fiscal Year 1985, the Institute completed a pilot project in which 10 major private sector corporations and organizations developed model programs to help resolve the problems victims face and to guide other companies in addressing victims' needs. As one example, CBS expanded its employee consultation services to include referral and education programs for employees who are victimized.

As a result of the recent increase in reports of child sexual abuse, the Institute has sponsored a study comparing sentences for sex offenses committed against adults and those committed against children. Sentences in three jurisdictions are being studied to determine whether sex offenses involving adult victims are more likely to result in prison time than sexual offenses committed against children. The study will identify problems and issues local jurisdictions face in dealing with the growing number of child and adult sex offense cases.

A new research program by the Institute is studying the desirability and utility of cooperative efforts between victim assistance and Neighborhood Watch programs. Approaches for establishing and maintaining a cooperative relationship, with emphasis on areas of victim assistance service delivery that Neighborhood Watch volunteers could provide, are being studied.

Another research study will examine the long-term psychological and physical effects on victims of various types of crime over a period of time. The trauma of rape and robbery victims will be studied, providing important information about the psychological aftermath of victimization.

This study is expected to yield useful information on ways to deal with the trauma associated with being a victim of crime.

Adjudication

Last year, the Institute launched a major research effort to reduce the rate of avoidable felony case attrition through improved case preparation and policy coordination between prosecutors and police. The experiment is being carried out in 10 sites across the nation and will produce policy recommendations for promoting improved coordination between police and prosecutors in dealing with the arrest and conviction of felony offenders.

A recently completed state-by-state compendium details the history and status of sentencing reforms throughout the nation. This report addresses issues related to sentencing structures and also considers the impact of new sentencing reforms on prison populations.

Other sentencing research determined the patterns of fine usage in the United States, finding wide variation even within the same state or metropolitan area. Such variations also exist with respect to fine collection and enforcement procedures. Successful strategies in the use, collection, and enforcement of fines were identified.

Career Criminals/Violent Crime

Research has shown that a small portion of the criminal population commits a disproportionate amount of crime. The Institute is publishing a report entitled *Targeting Law Enforcement Resources: The Career Criminal Focus*. It discusses law enforcement activities aimed at the apprehension and successful prosecution of the serious or repeat offender, and describes three primary program strategies: post-arrest case enhancement programs that target law enforcement investigative resources to ensure the successful prosecution of known career criminals or repeat offenders; career criminal warrant service programs that utilize a variety of traditional investigative strategies to apprehend career criminals who have outstanding warrants; and pre-arrest targeting programs that use surveillance and other strategies to target and apprehend career criminals during the commission of crimes.

In response to the problem of serial murder, the National Institute, the Office of Justice Programs and the Federal Bureau of Investigation have cosponsored planning and development of a National Center for the Analysis of Violent Crime. Located at the FBI National Academy in Quantico, Virginia, the Center is conducting research and providing training, technical assistance, and information sharing for federal, state, and local agencies faced with similar patterns of violent crimes.

Research continues on better techniques for classifying dangerous offenders. One new project is studying a method for developing more accurate classification of sex offenders to be able to predict future behavior of such criminals.

Corrections

The Institute has funded research to examine major prison management concerns and examine specific strategies for dealing with prison crowding. One project addresses the effective use of jail space by reviewing successful local efforts that analyzed the causes of the jurisdiction's jail crowding problem and its success in expeditious case processing. The project also is developing brief reports for judges and prosecutors which outline the key role each group can play in ensuring that jail space is used in ways consonant with public safety.

The Institute also is engaged in research to identify innovative construction methods and their benefits for state and local officials. A new series, *Construction Bulletins*, will provide reports on selected model correctional facilities, and a National Directory of Corrections Construction will contain detailed profiles on prison and jail building projects throughout the United States. In addition, a computerized data base will function as a national center for sharing information on new approaches to building correctional facilities.

Institute research also documented the risks posed by the increasing use of felony probation. A study of 1,672 felony probationers in California found 65 percent were rearrested, 51 percent were reconvicted (18 percent for serious violent crimes) and 34 percent were reincarcerated during a 40-month followup period. Because only a fraction of all crimes result in an arrest, these dramatic statistics clearly underestimate the total amount of crime committed by these probationers.

The Institute developed two major projects on the role of the private sector in corrections. The *Privatization of Corrections* outlines the current status and major issues surrounding new proposals for private operation of prisons and jails, private financing alternatives for correctional construction and greater private sector involvement in prison industries. In addition, the Institute is examining those jurisdictions now pursuing private sector corrections ventures in order to assess their experiences and provide critical new information to other jurisdictions.

The use of electronic and computer technology to monitor offenders placed on house arrest or in community corrections programs is being addressed through a multi-pronged effort. This includes a paper describing the monitoring equipment and the early program experiences with it, a technological assessment of the equipment by the National Bureau of Standards, and a field assessment of several program sites around the country that are using monitoring procedures.

Research into Practice

To ensure that research results reach those who can put them to use, the National Institute carries out a vigorous research communication and utilization program. In Fiscal

Year 1985, three national conferences were held, on sentencing, the private sector and corrections, and the state of the art in policing. The Institute also sponsors visits by criminal justice agency executives to outstanding or innovative programs that could be adapted for other jurisdictions.

The Institute consolidates related research results and practical experience into guides for local agencies to help them deal with emerging issues in criminal justice. Among the Issues and Practices reports prepared in Fiscal Year 1985 were: *Effective Approaches to Reducing Jail Crowding*; *Correctional Facility Design and Construction Management*; *Probation Under Fiscal Constraints*; *The Special Management Inmate*; *Supplementing Police Budgets*; *Investigative Management and Information Systems*; and, *Patrol Deployment Strategies*.

The Institute also publishes research summaries to highlight findings in a succinct, readable format for busy criminal justice professionals and policymakers. Among the Research in Brief titles issued in Fiscal Year 1985:

When the Victim is a Child: Summarizes results of a study of methods to reduce the trauma of court appearances on child victims of sexual abuse and to assist prosecutors and judges in dealing with the special needs of the child victim.

The Private Sector and Prison Industries: An overview of the history of private enterprise in the American prison system, plus the results of a survey on the recent developments in the privatization of prison industries since 1980.

Probing the Links Between Drugs and Crime: Reviews research by NIJ and other federal agencies on the relationship between levels of criminal activity and active periods of drug abuse by individual offenders. Also discussed is the economic impact on victims and society from crimes committed by drug abusers.

Jailing Drunk Drivers: Impact on the Criminal Justice System: Analyzed the experiences of criminal justice agencies dealing with mandatory confinement for drunk driving in local jurisdictions in four states. It recommends steps to ease implementation of mandatory jailing of drunk drivers.

Probation and Felony Offenders: Reports on a study of California felons released on probation that indicates that felony probation presents a serious threat to public safety.

A new addition to the dissemination program in Fiscal Year 1985 was *Crime File*, a series of 22 videotapes covering major crime issues, including deadly force, the exclusionary rule, domestic violence, drinking and crime, sentencing, search and seizure, prison crowding, and victims of crime. The series will be shown on public television stations throughout the country beginning in fall 1985.

NIJ also operates an international information clearinghouse, the National Criminal Justice Reference Service (NCJRS). NCJRS has a computerized data base of more than 80,000 books, reports, articles, and audio-visual materials on all aspects of criminal justice. A bimonthly

journal, NIJ Reports, keeps 60,000 registered users of NCJRS abreast of new research reports and findings, and new services available.

The Testing and Information Center of the Institute's Technology Assessment Program is helping law enforce-

ment agencies save public dollars by giving them accurate information for informed, cost-effective purchasing decisions. For the first time, the program is providing data online for immediate computer access by local departments.

Office of Juvenile Justice and Delinquency Prevention

Alfred S. Regnery
Administrator

The Office of Juvenile Justice and Delinquency Prevention (OJJDP) provides assistance to state and local governments to enhance juvenile justice and reduce delinquency and is responsible for coordinating and providing policy direction to all federal juvenile delinquency prevention efforts. The Office is comprised of four divisions: Special Emphasis; Training, Dissemination, and Technical Assistance; Research and Program Development; and State Relations and Assistance.

In addition, OJJDP is responsible for the Concentration of Federal Effort Program and the Missing and Exploited Children's Program created by the Missing Children's Assistance Act of 1984.

Special Emphasis Division

The Special Emphasis Division provides discretionary funds directly to public and private agencies, organizations, and individuals to foster new approaches to delinquency prevention and control. During Fiscal Year 1985, the Division began development of several significant programs planned for support in Fiscal Year 1986:

The Private Sector Probation Program will demonstrate the feasibility of private sector involvement in the delivery of probation services currently being provided by the public sector.

The Training and Technical Assistance for the Serious Habitual Offender Program will recruit persons from successful program sites to provide assistance in implementing programs for serious habitual offenders and provide training to juvenile and criminal justice, law enforcement, and adjudication agencies.

The National Partnership to Prevent Drug and Alcohol Abuse is a public-private partnership comprised of all segments of American society concerned with combating substance abuse. It is developing a national program to coordinate both existing and new efforts in this area.

Replication of Successful Drug and Alcohol Abuse Programs will provide training and technical assistance to states and local communities on drug and alcohol abuse prevention programs that have been proven successful.

The National Center for the Prosecution of Child Abuse will track and report on changes in case and statutory law, develop model statutes, disseminate information, develop effective training methods, conduct research, and provide

litigation support in the area of the prosecution of child abuse.

During the year, the Division continued support of the National Center for Missing and Exploited Children. The Center has established a toll-free telephone line; operates a national resource center and clearinghouse to provide assistance to state and local governments, organizations, and individuals; coordinates public and private programs that locate or recover missing children; and disseminates information nationwide about missing children's programs.

Also continued were programs to improve the prosecution of habitual, serious, and violent juvenile offenders and support an information and case management program to coordinate efforts on serious juvenile offenders, particularly those involved with drugs. In addition, the Division sponsored a program designed to demonstrate that the private sector can implement effective programs to rehabilitate chronic, serious juvenile offenders and enhance private sector involvement, and a program to provide training and technical assistance for Hispanic runaways, sexually exploited, abused, and neglected Hispanic children, and to foster safe schools in Hispanic neighborhoods.

Training, Dissemination and Technical Assistance Division

This Division is responsible for programs for the training of professional, paraprofessional, and volunteer personnel and others who work with juvenile offenders and their families. In addition, the Division serves as a clearinghouse for the preparation, publication, and dissemination of all information regarding juvenile delinquency. The Division also provides for technical assistance to federal, state, and local governments, courts, public and private agencies, institutions, and individuals in planning, establishing, funding, operating or evaluating juvenile delinquency programs.

Major Fiscal Year 1985 Division activities were as follows:

The Restitution Education, Specialized Training, and Technical Assistance Program provides education, training, and technical assistance to key juvenile justice system personnel and informs them of the range of successful juvenile restitution programs. The Program was designed to increase

the use of restitution and refine approaches to restitution as one of the dispositions available in the juvenile courts.

A National School Safety Center has been established to provide a national focus on school safety by making the nation aware of the magnitude of school crime and violence in schools, and promoting innovative workable campus crime prevention and school discipline restoration programs. In addition, the Center operates a national clearinghouse; conducts statutory and case law research of the rules and procedures governing school discipline and campus crime prevention; sponsors, cosponsors, and participates in national, state, and local conferences and workshops; has established "National School Safety Week," and is responsible for the designation of "America's Year of School Safety, 1985-1986."

The Permanent Families for Abused and Neglected Children program focuses national attention on the need for providing permanent homes for abused and neglected children.

Coordinated by the National Council of Juvenile and Family Court Judges, it is designed to aid judges in their decisions in child abuse and neglect cases. The program recruits and trains volunteers who serve as Court-Appointed Special Advocates.

This partnership of juvenile and family court judges, volunteers, and others interested in the welfare of children is expected to reduce the number of children in foster care, prevent juvenile delinquency, and greatly enrich the lives of the nation's abused and neglected children. Sixty-four training sessions were held, attended by 5,135 persons during Fiscal Year 1985. The Court-Appointed Special Advocate project has extended permanent family planning into 41 states, the District of Columbia, and Puerto Rico.

During Fiscal Year 1985, the Division supported several other training programs. These included the following: The National Council of Juvenile and Family Court Judges continued to provide training in a wide range of areas for juvenile and family court judges and court-related personnel. The Office's Law-Related Education (LRE) Program continued to help youth understand the processes of the juvenile justice system and the application of law in everyday life. The training program established for police executives and personnel at the Federal Law Enforcement Training Center in Glynco, Georgia, continued to provide training to increase police effectiveness in providing juvenile services. Another training program for police was provided for experienced investigators—in state-of-the-art techniques of investigating cases involving child abuse, sexual exploitation of children, and "kiddie" pornography. A total of 1,040 law enforcement personnel were trained during Fiscal Year 1985.

Research and Program Development Division

The Research and Program Development Division supports a comprehensive program of research addressing three major areas: prevention of delinquent behavior and child exploitation, improvement of the juvenile justice system, and development of alternatives to the traditional juvenile justice system. The following discussion highlights major research and program development activities conducted during Fiscal Year 1985.

Prevention of Delinquent Behavior and Child Exploitation

Work was completed on the evaluation of programs for delinquency prevention through alternative education. Participating schools showed overall improvement in measures of school safety from the 1981 school year to the 1983 school year. The research indicated that school safety and orderliness are related to the clarity, fairness, and firmness of school rules. In Fiscal Year 1985, the Research and Program Development Division launched a program specifically designed to develop and test innovative discipline codes in the secondary school setting.

In addition to attempting to prevent delinquency in the schools, the Research and Program Development Division investigated delinquency risk factors in the context of high crime communities. A new program of research was designed to improve understanding of the development of prosocial and antisocial behavior patterns in the context of the high crime community, family, and the individual youth. The Research and Program Development Division also will be examining patterns of drug use and the availability of treatment services in inner city, high crime communities.

The Research and Program Development Division is continuing to investigate the nature and impact of child abuse and sexual exploitation. Under the Missing Children's Assistance Act, projects have been initiated to improve the accuracy of national incidence estimates, analyze current law enforcement procedures, and identify effective practices for handling missing children cases.

Improvement of the Juvenile Justice System

The Research and Program Development Division efforts were concentrated on justice system treatment to those youth who repeatedly engage in serious and violent crimes. Work was completed on the following two studies: the comparative disposition study, which examined court processing of dangerous juvenile offenders tried in juvenile court compared to those tried in adult court for similar offenses; and the national study of institutional commitment and release decisionmaking for juvenile delinquents.

Ongoing studies are focused on: assisting intensified law enforcement efforts to identify serious habitual juvenile of-

fenders involved in drug trafficking, evaluating the effectiveness of specialized prosecutorial units that concentrate on serious habitual juvenile offenders, and testing the impact of various levels of probation supervision on juvenile recidivism.

Alternatives to Juvenile Justice Processing

In addition to examining traditional justice system handling of the serious juvenile offender, the Research and Program Development Division currently is sponsoring research that focuses on innovative methods for rehabilitating repeatedly violent juvenile offenders and involvement of the private sector in the delivery of correctional services for the chronic juvenile offender. Work was completed on the national evaluation of a community-based, nonresidential program that involved comprehensive, individualized treatment for serious repeat juvenile offenders.

A preliminary review of existing evaluation reports and national data sources was conducted to determine the impact of nonconfinement on recidivism and the secure confinement of status offenders. This report served as the foundation for initiating a comprehensive research project to assess the positive and negative effects of federal, state, and local legislation and policy changes in the last decade on the handling of youth who commit status offenses.

State Relations and Assistance Division

The State Relations and Assistance Division provides funds to states participating in the implementation of the mandates of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended. This includes offering assistance to those states in such areas as the deinstitutionalization of status offenders and the removal of juveniles from adult jails and lockups.

Formula Grant Program

Among the 57 states and territories eligible to participate in the Formula Grant Program, 52 participated during Fiscal Year 1985. These states and territories received formula grant awards totaling \$41,810,000. State and territorial allocations are based on the population of juveniles (persons under 18 years of age). The minimum allocation to each state was \$225,000, and to each territory was \$56,250.

The provision of alternatives to secure confinement for status offenders and nonoffenders, and the separation of juveniles from adult offenders in institutions have been major emphases of state programs, with a goal of completely removing juveniles from adult jails and lockups by December 1985. Forty-nine states and territories have met special requirements of the enabling Act by demonstrating substantial or full compliance with the nonconfinement of status offenders; 39 states have complied with the requirements for the separation of adults and juveniles in

adult jails and lockups. Most of the remainder are making creditable progress.

Non-Participating State Initiative

OJJDP issued a program announcement to support the development and implementation of projects to improve the detention and incarceration practices, policies, programs, and alternative services within the five states not participating in the Formula Grant Program. The Program addresses the problems associated with placing status offenders in secure facilities and any juveniles in adult jails and lockups.

Technical Assistance

A major technical assistance effort was supported to assist states in complying with the Juvenile Justice and Delinquency Prevention Act requirements. It provides nationwide assistance to improve detention practices, policies, facilities, alternative services, and other issues related to the pre-adjudicatory handling of juveniles.

Marketing

In Fiscal Year 1985, the Division focused its marketing efforts on top priority program areas: the Restitution Education, Specialized Training and Technical Assistance (RESTTA) Program; and the State Clearinghouse portion of the National Center for Missing and Exploited Children. The staff received in-house training and materials on these programs, as well as calendars for major milestones. Extensive information on both have been mailed to each State Juvenile Justice Specialist and State Advisory Group Chairperson.

Presentations on each were made at the Annual State Advisory Group meeting. Staff also conducted RESTTA training sessions to brief state staff persons and practitioners on the availability of formula grant monies for restitution programming.

The paper, State Clearinghouse Legislation: An Analysis of Its Functions and Related Suggestions for Legislative Provisions, is being disseminated to all states to make them aware of the options available in establishing State Clearinghouses for information with regard to missing and exploited children.

Concentration of Federal Effort Program

The Concentration of Federal Effort Program promotes a unified effort at the federal level to address the multitude of issues regarding juvenile delinquency. The Concentration of Federal Effort Program is designed to assist agencies that have some responsibility for juvenile delinquency prevention and treatment programs and to help implement programs among and between departments and agencies that can have an important bearing on the success of the overall federal juvenile delinquency effort.

During Fiscal Year 1985, the Program supported development of the National Partnership to Prevent Drug and Alcohol Abuse and joined with the Drug Enforcement Administration in the support of a project to train coaches and student athletes in drug abuse prevention strategies.

It also is working with the Bureau of Indian Affairs to provide funds to train Indian teachers and youth workers in substance abuse prevention techniques. It is anticipated that 120 Bureau of Indian Affairs education personnel representing 49 schools will participate in the training program.

To further the goals of the Concentration of Federal Effort requirements of the Juvenile Justice and Delinquency Prevention Act, OJJDP joined the Department of Education in two significant projects during 1985. First, the Office participated in the planning and implementation of a National Conference on Correctional Education. Second, OJJDP helped convene a panel of national experts to examine issues related to the implementation of Special Education programs for handicapped youth confined in correctional institutions, pursuant to the requirements of P.L. 94-142.

Missing and Exploited Children's Program

The Missing Children's Assistance Act of 1984 created within OJJDP a new program to coordinate federally funded programs and other efforts related to missing children. The program was established in response to the need for coordinating resources, developing, standardizing, and disseminating effective policies and procedures across all jurisdictions, and providing a central focus for research, data collection, policy development, and information regarding missing children.

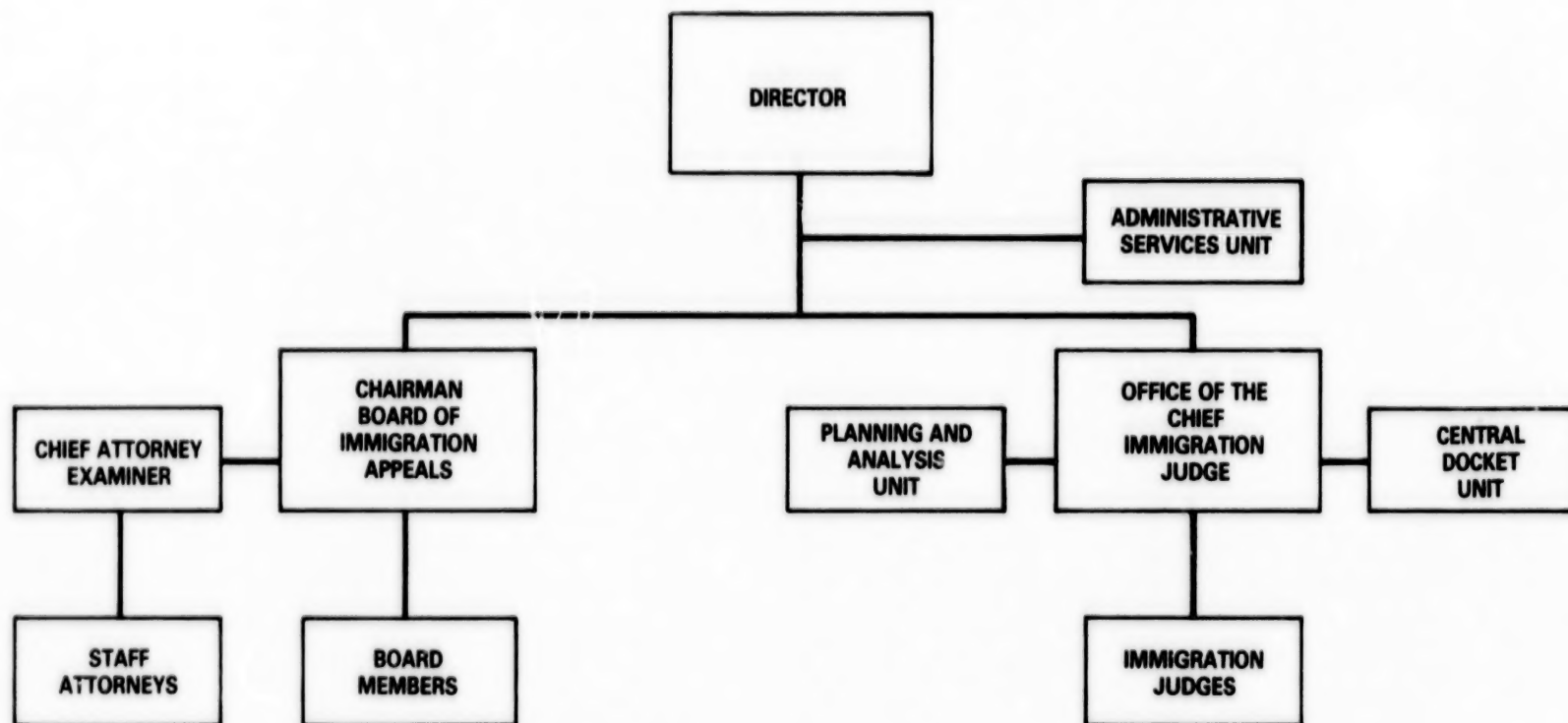
As required by the Act, OJJDP established and announced program priorities for making grants and contracts under the new authority. The final funding priorities follow:

- National Incidence Study to Determine the Numbers of Missing Children;
- National Study of Law Enforcement Agencies Policies and Practices Regarding Missing Children and Homeless Youth;
- Assistance to the Federal Law Enforcement Training Center for a training program for handling missing and exploited children's cases;
- Research on the relationship between missing and abducted children and sexual exploitation, the psychological consequences of abduction and sexual exploitation, and the child victim as witness;
- Training for practitioners involved with missing and exploited children;
- Assistance to State Clearinghouses for missing and exploited children; and
- Assistance to private voluntary organizations.

During Fiscal Year 1985, two Requests for Proposals were issued, one for the law enforcement study and another to provide technical assistance to private voluntary organizations for their operation and management. Awards are expected to be made in Fiscal Year 1986.

The Missing Children's Advisory Board was appointed in January 1985 and met four times during the year—in March, May, July, and October. The Advisory Board has met its statutory duty by advising the OJJDP Administrator and the Attorney General on coordinating programs and activities relating to missing children, and by advising the OJJDP Administrator with regard to the establishment of funding priorities. The Board also is preparing, with the OJJDP Administrator, a comprehensive plan on missing children for presentation to the President and the Congress in 1986.

EXECUTIVE OFFICE FOR IMMIGRATION REVIEW



Executive Office for Immigration Review

David L. Milhollan
Director

The Attorney General is responsible for the administration and enforcement of the Immigration and Nationality Act of 1952 and all other laws relating to the immigration and naturalization of aliens. The Attorney General has delegated certain aspects of his power and authority for the administration and interpretation of the immigration laws to the Executive Office for Immigration Review. The Executive Office for Immigration Review, which was created by internal Department of Justice reorganization, began operation on January 9, 1983, as part of the Attorney General's ongoing improvement of the immigration adjudication process. The Executive Office is completely independent of the Immigration and Naturalization Service, the body charged with the enforcement of the immigration laws. It includes the Office of the Director, the Board of Immigration Appeals and the Office of the Chief Immigration Judge and operates under the supervision of the Deputy Attorney General. It is headed by a Director, who is responsible for the immediate supervision of the Board of Immigration Appeals and the Office of the Chief Immigration Judge.

Board of Immigration Appeals

The Board of Immigration Appeals is the highest administrative tribunal charged with interpreting and applying the provisions of the immigration laws. It is composed of a Chairman and four members, and necessary support staff. The Board's primary mission is to ensure that immigration laws receive uniform application throughout the United States. The Board accomplishes this in part by analyzing and interpreting provisions of law and regulation in its decisions and, in part, by providing uniformity for orders issued by immigration judges or officers of the Immigration and Naturalization Service.

The Board has jurisdiction to hear appeals from specified decisions of immigration judges and immigration officers. The wide variety of cases reaching the Board consist of appeals from decisions rendered by immigration judges and district directors involving formal orders of deportation, discretionary relief from deportation, exclusion proceedings, claims of persecution, stays of deportation, bond and detention, petitions for immediate relative and visa preference classification for alien relatives of U.S. citizens and permanent resident aliens, and administrative fines imposed upon carriers because of violations of the immigration laws.

Appeals are decided by the Board in written opinions. Unless modified or overruled by the Attorney General, Board decisions are binding on immigration judges and all officers of the Immigration and Naturalization Service. Decisions relating to final administrative orders of deportation, which constitute the majority of the Board's caseload, may be reviewed in the U.S. Courts of Appeals. Other Board decisions may be reviewed in the federal district courts.

The most significant of the Board's decisions—those which address issues of first impression or which resolve unsettled areas of law—are published as precedent. These decisions, in addition to being binding on the Immigration and Naturalization Service, are looked to for guidance by the Department of State, the Public Health Service, and the Department of Labor in order to coordinate their operations with those of the Service.

During Fiscal Year 1985, the Board rendered decisions in 3,870 cases.

Office of the Chief Immigration Judge

The Chief Immigration Judge is responsible for the general supervision of the 60 immigration judges in the performance of their duties under the Immigration and Nationality Act. The immigration judges are located in 21 field offices throughout the United States. The Office of the Chief Immigration Judge includes a Headquarters staff of 20 management and legal personnel.

The immigration judges preside at formal, quasi-judicial deportation and exclusion proceedings. They act independently in their decisionmaking capacity and their decisions are administratively final unless appealed or certified to the Board of Immigration Appeals.

The Office of the Chief Immigration Judge has completed initial implementation of a nationwide Uniform Docketing System which assures a consistent nationwide process for immigration case adjudication. The system utilizes a combination of a Master Calendar (status review of multiple cases and full hearings on cases which do not require lengthy hearings) and an Individual Calendar (individual cases heard on the merits) in order to direct the pace of immigration litigation, assure effective and efficient use of judicial personnel and resources, and provide a mechanism for monitoring progress on all pending cases.

Further management initiatives include the following: a nationwide contract for transcription services which has reduced the backlog of hearings awaiting transcription and expedited appellate processing time; a nationwide contract for interpreter services which provides for onsite professional interpreters for immigration hearings; the expansion to all offices of a telegraphic mail service which substantially reduces the cost and time required to prepare and send hearing notices to all parties; the preparation for publication in the Federal Register of Rules of Procedure which will codify the procedures to be followed by the participants in immigration hearings; the compilation of an Immigration Judge Benchbook; and the initial implementation of the Executive Office for Immigration Review's Automated Nationwide System for Immigration Review (ANSIR) in the field offices, with full implementation scheduled during Fiscal Years 1986 and 1987.

In recognition of the importance of continuing education for immigration judges, the Executive Office for Immigration Review conducted for the third time in October 1984

another highly successful Immigration Judges Conference. This annual event assembles the entire corps of immigration judges for training in developing immigration law and innovative methods and procedures which increase productivity. In addition to the important exchange of ideas and information, judges attended sessions conducted by representatives of the Executive Office for Immigration Review management, the Department of State, the Immigration and Naturalization Service, judicial caseload management experts, and the private bar, designed to inform them on current trends and developments affecting their judicial function. Further, in 1985, the Executive Office for Immigration Review conducted, in conjunction with the Attorney General's Advocacy Institute, a one-week training course for new immigration judges. Training programs for new immigration judges have proven extremely beneficial and have become a permanent part of the agency's program.

During Fiscal Year 1985, 133,999 matters were received and 129,868 matters completed nationally by immigration judges.

Antitrust Division

Douglas H. Ginsburg
Assistant Attorney General

"Competition" is the fundamental economic policy of the United States. Competitive markets serve consumers by fostering innovation and efficient resource allocation, thereby assuring maximum productivity at the lowest possible cost.

The mission of the Antitrust Division is to promote and maintain competition in the American economy, a task which it accomplishes in four basic ways. *First*, as a law enforcement agency, it prosecutes violations of the antitrust laws by bringing criminal and civil antitrust cases under the Sherman and Clayton Acts. In connection with this function, the Division issues guidelines and business review letters that clarify its enforcement policies with respect to various forms of commercial conduct. *Second*, it participates in proceedings of federal (and occasionally state) regulatory agencies, takes part in Administration policy groups, and testifies before congressional committees to advocate competition-oriented solutions to national problems. *Third*, it seeks to promote judicial acceptance of efficient, procompetitive antitrust standards by filing *amicus curiae* briefs in selected antitrust cases. *Fourth*, representatives of the Division speak as proponents of competition before professional associations, business groups, and other organizations.

This fiscal year, the Division continued to emphasize the investigation, detection, and criminal prosecution of price fixing, focusing particularly on bid rigging. In September 1985, the Division launched an intensified program to detect collusion in the area of defense procurement. Senior Division attorneys met with Department of Defense officials to discuss ways of enhancing investigative techniques, and the Division began to expand its existing educational programs aimed at helping defense procurement officers spot bid rigging. An analysis was also undertaken to determine whether new procedures could be devised to discourage bid rigging and other collusive arrangements affecting defense contracts. The defense procurement initiative will involve a significant degree of collaboration between the Departments of Justice and Defense, and exemplifies the Administration's commitment to combating fraud, waste, and abuse in government.

Also in September, the Division undertook a reorganization of its internal structure. The reorganization, which was prompted by a 35 percent decrease in the Division's size over the past five years, is designed: 1) to reduce the number of litigating sections and assure that each section has an adequate complement of attorneys and responsibility for an ap-

propriate range of commodities, 2) to increase the efficiency of the Division's competition advocacy activities and extend those activities to new areas, and 3) to institutionalize the position of the Division's economists in a way commensurate with their important role in antitrust analysis and enforcement. The essential elements of the reorganization include:

- Consolidation of the nine Washington litigation sections into five new sections;
- Designation of a Deputy Assistant Attorney General for Economic Analysis and conversion of the existing Economic Policy Office into two new sections; and
- Merger of the Office of Policy Planning and the Evaluation Section.

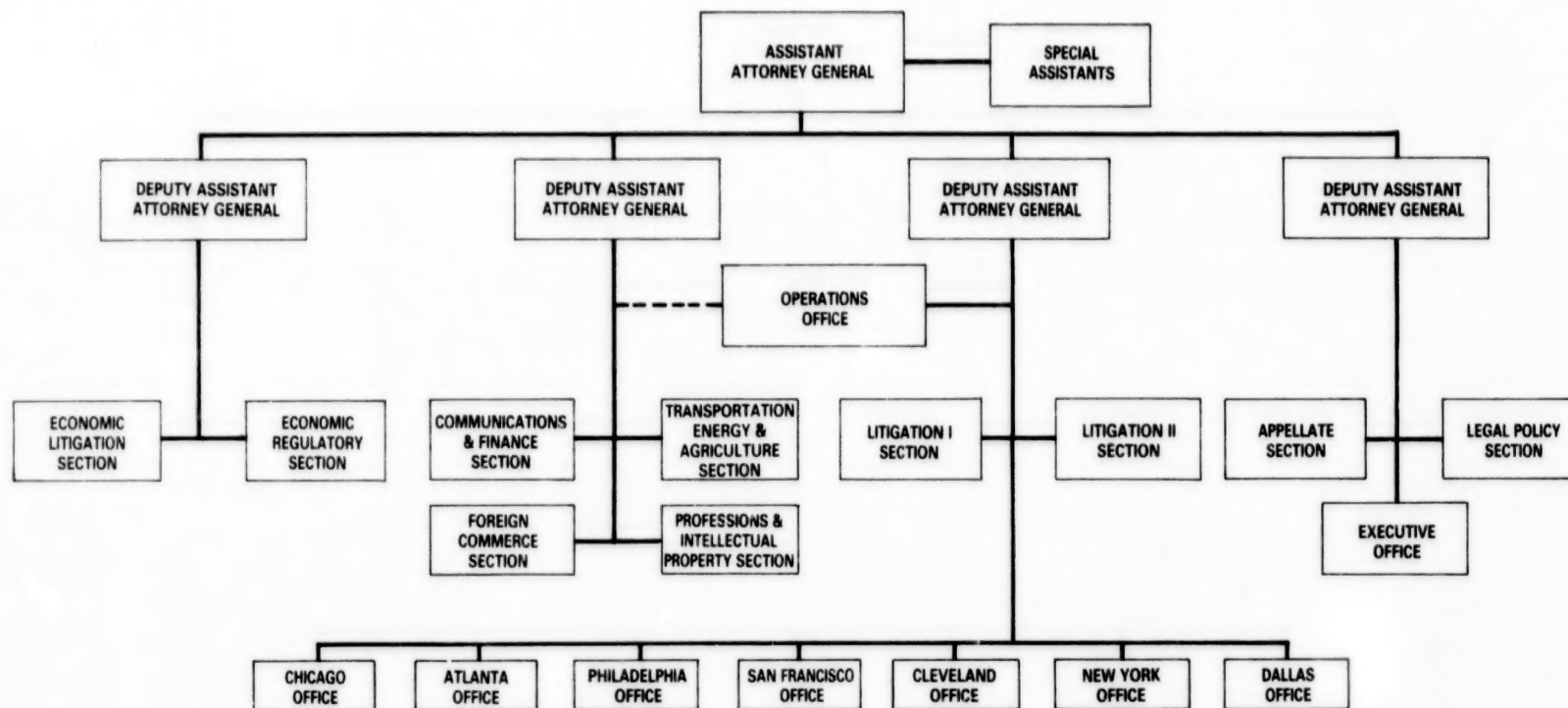
The reorganization does not affect the Division's seven existing field offices.

In January 1985, the Division published a set of Guidelines describing enforcement policies applicable to certain "vertical" restraints. The Guidelines, which deal with business practices encountered in market distribution systems, are intended to encourage the use of efficient, procompetitive commercial arrangements.

Overall, with a staffing level of 649 full-time employees (down from 704 in the previous year), the Division filed 58 antitrust cases during Fiscal Year 1985. It opened 248 formal investigations of possible antitrust violations and spent more than 2,860 attorney days in court. The Division filed briefs in the Supreme Court and the courts of appeals in 18 antitrust cases where the Division was a party, and in eight other cases where the Division was an *amicus curiae*. The Division appeared in 37 federal regulatory agency proceedings by filing briefs or formal comments, participating at hearings, or presenting oral argument.

The Division also devoted substantial resources to competition advocacy in the legislative area during the past year. The Assistant Attorney General, or his representative, made 14 appearances before congressional committees on matters relating to antitrust law and policy. The Division answered a total of 235 requests from the Office of Management and Budget and from congressional committees for comments on proposed legislation. In addition, the Division continued to provide information on a wide variety of matters to Congress and others. It responded to 245 mail inquiries from the legislative branch, 169 inquiries referred to it by the White House, and several thousand inquiries received directly from the public. Four hundred and thirty-nine requests filed under

ANTITRUST DIVISION



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the Freedom of Information and Privacy Acts were also processed, and the Division responded under Section 4F(b) of the Clayton Act to 16 requests from state attorneys general seeking access to investigative materials.

Competition advocacy by the Division in Fiscal Year 1985 also occurred in a variety of other forums. Division personnel participated in 18 interagency and international committees dealing with a wide range of subjects, such as computer software protection, international trade policy, ocean shipping, telecommunications, and regulation of financial services. As required by various statutes, the Division provided advice to other federal agencies on the competitive implications of over 800 proposed transactions, most of them involving mergers and acquisition of financial institutions, but also including 39 other matters, such as nuclear power plant operating licenses, disposition of surplus government property, and Outer Continental Shelf lease sales. Finally, the Division prepared statutory reports to the President and to Congress on subjects such as the activities of the International Energy Agency, the state of competition in the coal industry, and voluntary transportation agreements established under the Defense Production Act.

Price Fixing and Related Restraints of Trade

The Antitrust Division places special emphasis on criminal enforcement of the Sherman Act as a major deterrent to collusive behavior. Protecting the marketplace from price fixing and kindred activities is crucial, and criminal prosecution leading to actual incarceration is the single most effective deterrent to concerted anticompetitive conduct. Forty-seven criminal cases were filed by the Division during Fiscal Year 1985, 1,268 days of incarceration were imposed, and fines and recoveries totaled approximately \$9.6 million.

The Division's enforcement program against bid rigging in public procurement continued to generate considerable litigation. In industries involving public highway and airport construction, electrical construction, and utility construction, the Division initiated 30 new criminal prosecutions involving 32 corporations and 24 individuals. To date, 22 of those cases have been resolved in the government's favor. During the year, fines totaling nearly \$4.5 million were assessed and over 1,200 days of incarceration were imposed. The Division's investigation of these industries is continuing, with 46 grand juries underway in 26 states at year's end.

Enforcement actions against horizontal price fixing and other restraints of trade were also successfully completed in such product areas as seafood, automobile replacement wheels, hops, electrical conduit, and groceries. Cases pending at the close of the year included challenges of anticompetitive practices affecting retail gasoline, cordage, and bread products.

The Division also continued its scrutiny of anticompetitive conduct in the service industries. It filed cases involving

dredging and aerial spraying, and a series of felony informations and civil complaints against motion picture exhibitors who had allocated films among themselves. Injunctive decrees were entered to eliminate anticompetitive constraints affecting port agent services to ocean vessels, engineering geology, and rock concert promotion, and other services.

Vertical Restraints

In January 1985, the Division issued Guidelines to explain its enforcement policy respecting non-price "vertical" restraints. Vertical restraints are contractual provisions designed to control relationships among firms that do business at different levels of the market distribution system. The purpose of the guide is to reduce uncertainty about the impact of antitrust enforcement on certain vertical practices that can enhance efficiency and promote competition.

Although vertical restraints take a variety of forms, the Guidelines focus primarily on two major categories: territorial and customer restraints, and exclusive dealing arrangements. Territorial and customer restraints are employed by a seller to restrict the territory in which, or the customers to which, a buyer is permitted to resell goods. Exclusive dealing arrangements require that a buyer deal only with a particular seller or that a seller deal only with a particular buyer or group of buyers.

The Guidelines examine the most prominent pro-competitive and anticompetitive effects of vertical restraints, and set forth the Division's two-step rule of reason analysis for evaluating such arrangements. Under the first step of this approach, the Division employs a "market structure screen" in order to eliminate from further consideration those restraints that, in all likelihood, have no anticompetitive effect. Accordingly, the use of vertical restraints by firms having market shares of under 10 percent, by firms operating in markets that are not characterized by extensive use of such restraints, or by firms operating in unconcentrated markets, will be presumed legal without further analysis by the Division. The Division considers the 10 percent market share "safe harbor" to be one of the most important aspects of the Guidelines, and expects that the market structure screen as a whole will eliminate most vertical restraints from further consideration.

The Division applies a structured rule of reason analysis to those vertical restraints that do not pass muster under the initial screen. The Division first asks whether a new entrant could easily supply or distribute the product under restraint. If entry into both the supplier and dealer markets is easy, anticompetitive collusion and exclusion are not possible, and the restraint under study will be presumed legal. If, however, entry into supply or distribution is difficult, the Division will analyze other factors bearing on the likelihood that the restraint is anticompetitive rather than pro-

competitive. Such factors include the degree of concentration in the markets under study, whether market conditions are conducive to collusion, the extent to which the restraint is exclusionary, whether there is evidence of an intent to exclude or collude, whether new or small firms use the restraint, and whether the firms engaging in the restraint can identify credible procompetitive efficiencies resulting from the practice. If, on balance, these factors suggest that a vertical practice is not anticompetitive, it will not be challenged. The Division will attack a restraint only if these or similar relevant factors indicate that a practice is anticompetitive.

The Guidelines also include a short discussion of tying arrangements, a third category of vertical restraint whereby buyers seeking to purchase one product are required to purchase a second product as well. The Guidelines indicate that under current law, tying should be considered unlawful only where the firm imposing the tie has "dominant" market power (akin to monopoly power) respecting the product to which the second product is tied. Finally, the Guidelines describe how markets are defined for vertical restraints analysis, and adopt for that purpose the market definition principles articulated in the Department's 1984 Merger Guidelines.

Preservation of Competitive Market Structure

Another of the Division's major enforcement programs focuses on market structure, and on anticompetitive practices that may lead to or stem from undue concentration of market power. Under Section 7 of the Clayton Act, the Division challenges mergers that threaten to reduce existing or potential competition. It also invokes Section 2 of the Sherman Act to seek injunctive and structural relief from the adverse effects of monopolistic acts or practices.

Merger Enforcement

Effective merger enforcement requires that proposed acquisitions be reviewed before they are consummated. Otherwise, the Division will be unable to challenge mergers in court until after the assets of the merging firms have been mingled. Under the premerger notification provisions of the Hart-Scott-Rodino Antitrust Improvements Act, the Antitrust Division (and the Federal Trade Commission) obtain information on all significant mergers. The Act provides that proposed merger transactions may not be consummated until prescribed waiting periods have passed.

In all, 1,604 transactions were reviewed by the Division during Fiscal Year 1985 under the Hart-Scott-Rodino Act. More than 1,760 mergers and acquisitions undertaken by banks and other financial institutions were also reviewed under applicable banking statutes. In seven cases, proposed mergers or acquisitions were abandoned after the Division advised the parties that the transaction appeared to be anticompetitive. The industries involved included health ser-

vices, resin manufacturing, banking, feed phosphates, economic forecasting, contraceptives, and billboards.

The Division filed six new merger cases, all of them alleging the elimination of existing or prospective horizontal competition. Three consent decrees, involving aluminum can body stock, mil-spec commercial-based computers, and air turbine starters, were negotiated in which the merging firms agreed to divest the assets that created the competitive overlap. In the aluminum case, a novel solution was employed permitting the acquiring company to hold a 40 percent share in joint venture created to operate the can stock rolling mill at issue. In three other cases involving financial institution mergers, bank regulatory agencies included the Division's restructuring recommendations in their merger approval orders.

Four merger cases filed in earlier years, relating to steel, telecommunications, rubbish removal, and drapery hardware, were resolved in the government's favor. In another case, the Division filed a civil penalty suit charging that an oil and gas company and its affiliates had acquired shares in one of the world's major copper producers without filing in advance the necessary documents required under the Hart-Scott-Rodino Act. The Division's complaint alleges that because the stock acquisition was not made solely for the purpose of investment, the Act's investment exemption is inapplicable.

AT&T Settlement and Other Section 2 Action

In *AT&T*, the Division's major Section 2 case, a prime area of activity during 1985 related to various applications by the telephone operating companies for permission to enter new business ventures. Under the *AT&T* decree, operating companies are limited to providing exchange telecommunications and exchange access, unless the product or service they wish to offer is a natural monopoly actually regulated by tariff, or unless they obtain a specific waiver from the court. The Division participated in nearly 50 such waiver application proceedings during the year.

The Division continued monitoring the seven regional operating companies to assure that there was no discrimination in the acquisition of telephone equipment or the provision of exchange interconnection to long distance companies (equal access). The Division also participated in Federal Communications Commission proceedings dealing with such decree-related actions as:

- Instituting procedures to encourage affirmative choice by consumers in their selection of a long distance carrier,
- Eliminating the Commission's requirement that AT&T sell customer premises telephone equipment only through a separate corporate subsidiary, and
- Devising guidelines for regulatory review of optional long distance telephone discount packages proposed by AT&T.

In *United States v. American Airlines, Inc.*,¹ another case under Section 2 of the Sherman Act, a court of appeals agreed with the Division in a matter of first impression, holding that the government need not allege or prove an agreement to monopolize in order to establish attempted joint monopolization.

Review of Antitrust Decrees

A major Division project for several years has been to modify or eliminate older antitrust decrees that have become anticompetitive or otherwise undesirable. Fifteen such decrees were modified or terminated during Fiscal Year 1985, and at year's end, another 13 were pending in court. This effort reflects the Division's conviction that deregulation of markets controlled by outdated antitrust decrees is just as important as deregulation of industries sheltered by anticompetitive statutory schemes.

Legislative Initiatives

During the year, the Division worked as a member of the Vice President's Task Group on Regulation of Financial Services to develop legislative proposals for revising and streamlining the existing regulatory system for financial institutions. Changes in the types of financial services provided by banking institutions, as well as new methods for delivering such services, demand a revised regulatory structure. As financial institutions become more competitive, the need for specialized review or shelter from standard antitrust principles will decline. The Division seeks to eliminate, to the fullest possible extent, oversight by financial regulatory agencies of the banking industry's competitive features.

The Antitrust Division has also proposed legislation that would discontinue or amend certain statutory provisions requiring the Department of Justice to file reports with Congress. The changes include elimination of annual reports on competition in the coal industry and duplicative surveys of government activity affecting small business. The proposed legislation would also: 1) convert to an annual basis the present semiannual report on oil company participation in the International Energy Program, and 2) require the Division to advise the General Services Administration respecting the antitrust aspects of surplus property disposal only when such property transfers have competitive significance.

Amicus Curiae Briefs and Other Appellate Cases

In Fiscal Year 1985, the Division filed nine *amicus* briefs with the Supreme Court in cases involving important questions of antitrust policy. Five filings were at the request of the Court and, in four of those cases, the Court ultimately acted in a manner consistent with the Division's suggestion: *Matsushita Electric Industrial Co., Ltd. v. Zenith Radio Corp.*,² *Mobil Oil Corp. v. Jerry A. Blanton*,³ *P.I.A. Asheville, Inc.*

v. State of North Carolina,⁴ and *Buckingham Corp. v. Odom Corp.*⁵ In *Matsushita*, plaintiffs contended that various Japanese television manufacturers and other companies had participated in a 20-year conspiracy to drive American television manufacturers out of business. The Division supported *certiorari*, urging the Court to reaffirm the standard that applies when an antitrust defendant seeks summary judgment. The Division argued that where a plaintiff is attempting to prove an anticompetitive conspiracy by relying solely on the defendant's parallel conduct, summary judgment is appropriate unless the evidence to be introduced is more consistent with the existence of conspiratorial behavior than with independent action.

In *Mobil Oil*, a jury found that Mobil had attempted to monopolize a relevant market. In its *amicus* brief, the Division argued that the court of appeals' opinion affirming the jury's verdict was erroneous in stating that: 1) there was no need to define the relevant market before imposing liability under Section 2 of the Sherman Act, and 2) a plaintiff in a Section 2 case could establish attempted monopolization without proving that actual monopolization was the probable result. Nevertheless, the Division contended that the Supreme Court should deny *certiorari* because the jury had been correctly instructed and the court of appeals had found that the verdict was supported by the record.

In *P.I.A. Asheville*, the Division argued that a court of appeals was correct in concluding that the National Health Planning and Resources Development Act of 1974 did not create an implied antitrust immunity with respect to acquisitions of competing hospitals. The Division also argued that North Carolina's review and approval of the acquisitions did not afford immunity to private parties under the state action doctrine. The Division therefore suggested that the Court deny *certiorari*. Finally, in *Buckingham*, a distributor termination case, the Division successfully argued that there was no reason for Supreme Court review of an interlocutory decision simply to determine whether the lower court had correctly applied controlling law to a particular set of facts.

The only case in which the Court acted contrary to the Division's recommendation was *Data General Corporation v. Digidyne Corporation and Fairchild Camera and Instrument Corporation*.⁶ There, a court of appeals held that a plaintiff alleging a *per se* illegal tie-in could establish anticompetitive forcing without proof that the defendant had market power in a relevant market. The Supreme Court, with two Justices dissenting, declined to review that holding.

The Division volunteered *amicus* briefs on antitrust issues in several other Supreme Court cases. In *Northwest Wholesale Stationery, Inc. v. Pacific Stationery and Printing Co.*,⁷ a purchasing cooperative had expelled a member without procedural safeguards. The Division successfully argued that the court of appeals erred in holding this act to be a *per se* violation of the Sherman Act. The Supreme Court

also agreed that Section 4 of the Robinson-Patman Act did not afford cooperatives an exemption from *per se* liability under the Sherman Act. In *Mitsubishi Motors Corporation v. Soler Chrysler-Plymouth, Inc.*,⁸ the Division argued unsuccessfully that the district court should not have referred a federal antitrust counterclaim to foreign arbitration pursuant to the terms of a contract between the parties.

The Division also was active in the courts of appeals in 1985, and won several important decisions, including: *United States v. John Scher Presents, Inc.*,⁹ (sentence placing corporation on probation on the condition that it donate money to charity held illegal); *United States v. LTV Corporation*,¹⁰ (appeal by nonparty from order entering final judgment approving a merger dismissed); *United States v. Nilson Van & Storage*,¹¹ (order granting defendant's motion for a new trial in a criminal case overturned); and *United States v. Smith Grading and Paving, Inc.*,¹² (conviction for bid rigging affirmed).

Regulated Industries

During Fiscal Year 1985, the Antitrust Division pursued competitive goals in regulated industries, both through direct antitrust enforcement (including cases noted earlier in this report) and by advocacy of regulatory reform. It urged elimination of unnecessary or counterproductive governmental interference with free market forces and, where legitimate regulatory objectives were at stake, sought adoption of the least anticompetitive means of market intervention.

In the transportation sector of the economy, the Division was especially active in merger proceedings. The Division participated in Department of Transportation matters pertaining to Southwest Airlines' acquisition of Muse Airways and United's proposed acquisition of Pan Am's Pacific routes. In the latter proceeding, the Division urged that approval of the acquisition be conditioned on the divestiture of one of the three routes being operated by United and Pan Am between Tokyo and the United States West Coast. Similarly, in the rail area, the Division appeared in proceedings concerning the acquisition of the Southern Pacific Railway by the Atchison, Topeka and Santa Fe. And, after an extensive analysis of the proposed sale of Conrail to Norfolk Southern, the Division recommended that certain assets be divested as a part of that transaction.

The Division was also active at the Interstate Commerce and Federal Maritime Commissions, assisting those agencies in interpreting new legislative requirements. In the past year, the Division challenged four motor carrier tariffs before the Interstate Commerce Commission on the grounds that they involved the collective setting of single-line rates, a practice prohibited since passage of the Motor Carrier Act in 1980. At the Federal Maritime Commission, the Division opposed collective ratemaking for movements of commodities

excepted from such ratemaking under the Shipping Act of 1984.

The Division filed nine comments at the Federal Communications Commission, dealing with such matters as determining the need for cable TV rate regulation under the Cable Communications Policy Act of 1984, authorizing private satellite systems to compete with INTELSAT in the provision of international communications services, and as discussed earlier, a series of issues related to the AT&T decree. The Division also participated in a Postal Rate Commission proceeding wherein the Postal Service agreed to sell its "electronic mail" service that had previously competed with private sector suppliers.

At the Securities and Exchange Commission, the Division supported a proposal to grant trading privileges to stock exchange organizations for unlisted, over-the-counter securities. The Division, because of its concern for principles of federalism, opposed adoption of a tender offer rule that would have preempted state regulation of self-tenders by corporations in takeover contests.

At the Federal Reserve Board, the Division urged that more study be undertaken before imposing regulations respecting large-dollar transfers. The Division supported a proposal permitting bank holding companies to engage in real estate investment and development activities (subject to limited risk-related safeguards) and allowing operational interaction between such companies and their "non-bank" bank subsidiaries. Finally, the Division urged the Federal Home Loan Bank Board to reject a proposal that would prohibit for three years any acquisition of a savings and loan association recently converted from mutual to stock form ownership.

In the area of oil pipeline regulation, the Division continued its participation in *Farmer's Union Central Exchange, Inc. v. FERC*,¹³ a long-standing challenge to the Federal Energy Regulatory Commission's method of oil pipeline regulation. Last year, the District of Columbia Circuit had remanded the case to the Commission, instructing it to construct an acceptable methodology along the lines the Division had advocated. During Fiscal Year 1985, the Supreme Court declined to review the order of the District of Columbia Circuit, and on remand, the Commission issued a decision acceptable to the Division in most major respects. However, because the new methodology left open the possibility that pipelines could charge unjust and unreasonable rates, the Division filed a Petition for Rehearing and Clarification. In another proceeding, the Division and seven other parties submitted a proposed settlement designed to end the *Trans Alaska Pipeline System* litigation, pending since 1977.

The Division continued to review the antitrust implications of the Outer Continental Shelf oil and gas leasing programs administered by the Department of the Interior. The Division also analyzed a number of contracts for the produc-

tion of petroleum products from the Naval Petroleum Reserves, and rendered post-licensing antitrust advice to the Nuclear Regulatory Commission in connection with applications for permits to operate nuclear power plants. The Division maintained its statutory role in reviewing the antitrust implications of the Department of the Interior's federal coal leasing program and, under the Energy Policy and Conservation Act, monitored industry participation at meetings of the International Energy Agency held in the United States and overseas.

Foreign Commerce

During 1985, the Division participated actively in the Committee of Experts on Restrictive Business Practices of the Organization for Economic Cooperation and Development. That Committee is concerned with international antitrust investigative methods, the relationship between trade policy and competition policy, international cooperation and conflict resolution in antitrust proceedings, and merger control and joint venture policies in member countries. In the United Nations Conference on Trade and Development (UNCTAD), the Division continued working to implement a set of voluntary principles and rules for the control of restrictive business practices. The rules, which were adopted unanimously by the United Nations General Assembly in December 1980, provide guidance for United States enterprises doing business in developing countries and for developing countries seeking to adopt or implement an antitrust policy. The Division also consulted closely with the Department of State and the domestic business community respecting an UNCTAD project to develop a Code of Conduct on the International Transfer of Technology.

Division staff were involved during the year with competitive questions that arose during market-opening negotiations with Japan. The Division also participated in negotiations with the European Civil Aviation Community concerning antitrust issues in international air transport, and with the Consultative Shipping Group (composed of representatives of European and Japanese governments) respecting maritime trade.

Bilateral antitrust consultations were held during the year with antitrust officials of the European Community. In addition, antitrust enforcement officials and individual antitrust specialists from numerous other countries visited the Division for informal discussions.

The Division continued to implement the Export Trading Company Act of 1982, which is intended to encourage export trade by U.S. companies. The Act provides that the Secretary of Commerce, with the concurrence of the Attorney General, may issue "export trade certificates of review" for certain export trade activities. Certificate holders are granted limited immunity from federal and state antitrust laws. During Fiscal Year 1985, 25 certificate ap-

plications were processed, 23 of which were approved. One was withdrawn, and one was pending at year's end.

Business Reviews and Other Advice to the Private Sector

Although the Department of Justice is not statutorily empowered to issue formal advisory opinions, the Division may respond to written requests from private parties by stating its present enforcement intention with respect to proposed business conduct. The Division responded to 28 such business review requests during Fiscal Year 1985. Among the proposed activities that received favorable review were joint research and development ventures dealing with machine tools, computer-aided manufacturing, and centrifugal pumps; a sharp fare reduction by an air carrier for travel on its New York-London route; development of industry standards for direct broadcast satellite service; licensing infrared spectrometers for overseas sales; and a number of group purchasing plans relating to such matters as cable television equipment and motor carrier freight rates. In September, the Division issued revised indexes to its Digest of Business Reviews, as well as annual Digest supplements for 1983 and 1984. The Digest, originally published in 1983, permits research of all review letters according to the topic, commodity or service involved, and the name of the requesting party.

Finally, as described earlier, the Division published vertical restraints Guidelines to encourage the use of efficient and procompetitive commercial arrangements in distribution markets.

Management Initiatives

Despite staffing reductions, a series of management initiatives (including the structural reorganization noted previously) and the utilization of sophisticated computer support have enabled the Division to increase its overall efficiency. In the area of litigation support, the Division has expanded both the number and the scope of investigations and cases that receive automated support through minicomputer-based systems and computer-generated graphics. In several instances, computer products such as graphic representations of complex pricing patterns have been introduced into evidence and have played a key part in the outcome of a case.

The Division has moved aggressively to promote use of its onsite minicomputer network for litigation support by implementing a new software package called the Antitrust Information Retrieval System (AIRS). AIRS was designed, developed, and implemented "in-house" to operate on existing Division equipment and to provide automated capabilities for the bulk of the Division's workload. To date, AIRS has been used to support over 60 matters.

The Division also continues to reap benefits from its extensive office automation program. Division users in

Washington and field offices are now interconnected through a local area network installed in the Main Justice Building and through electronic mail. This marks the successful conclusion of a four-year program to provide modern word processing and electronic mail capability to all Division offices.

CITATIONS

- (1) 743 F.2d 1114 (5th Cir. 1984), *petition for cert. filed*, 54 U.S.L.W. 3086 (Aug. 1, 1985) (No. 85-180).
- (2) No. 83-2004 (S. Ct.), *cert. granted*, 105 S. Ct. 1863 (1985).

- (3) No. 83-1896 (S. Ct.), *cert. denied*, 105 S. Ct. 1874 (1985).
- (4) No. 84-480 (S. Ct.), *cert. denied*, 105 S. Ct. 1865 (1985).
- (5) No. 84-806 (S. Ct.), *cert. denied*, 53 U.S.L.W. 3895 (June 24, 1985).
- (6) No. 84-761 (S. Ct.), *cert. denied*, 53 U.S.L.W. 3910 (July 1, 1985).
- (7) 105 S. Ct. 2613 (1985).
- (8) 105 S. Ct. 3346 (1985).
- (9) 746 F.2d 959 (3d Cir. 1984).
- (10) No. 84-5625 (D.C. Cir. Oct. 16, 1984).
- (11) 755 F.2d 362 (4th Cir. 1985), *petition for cert. filed*, 53 U.S.L.W. 3826 (May 6, 1985) (No. 84-1771).
- (12) 760 F.2d 527 (4th Cir. 1985), *petition for cert. filed sub nom.*, Dellinger Inc. v. United States, 54 U.S.L.W. 3100 (Aug. 2, 1985) (No. 85-199).
- (13) 734 F.2d 1486 (D.C. Cir.), *cert. denied*, 105 S. Ct. 507 (1984).

Civil Division

Richard K. Willard
Acting Assistant Attorney General

The Civil Division has four basic functions: to defend the President's policies and programs when they are challenged in court; to bring suit to collect money owed the United States by delinquent debtors and recover sums lost to the government through waste, fraud, and corruption; to defend the government and its officers and employees in lawsuits seeking damages from the U.S. Treasury or its employees personally; and to enforce federal consumer protection laws and other programmatic initiatives. The Division asserts or defends the programs and initiatives of over 180 federal agencies, including court challenges to the President's domestic and foreign policy initiatives, the nation's immigration laws and policies, and the statutory and regulatory integrity of many other federal programs established by the Congress. It also enforces consumer health and safety laws, including prosecutions for criminal violations.

During Fiscal Year 1985, the Division received or initiated 32,968 new cases, and its pending workload grew by 15 percent to a total of 45,906 cases. The potential loss to the Treasury in these cases through direct awards, higher program costs, or changes in anticipated revenue was well over \$130 billion. The Division has had outstanding success in protecting the interests of the government in these cases. During the fiscal year, its attorneys closed 9,094 cases involving claims of \$13.3 billion against the government, defeating 98 percent of these claims. Total awards to the plaintiffs in these cases amounted to no more than \$274 million. In addition, Division attorneys concluded 1,709 cases in which they recovered \$283 million for the Treasury.

Attorney General's Priorities

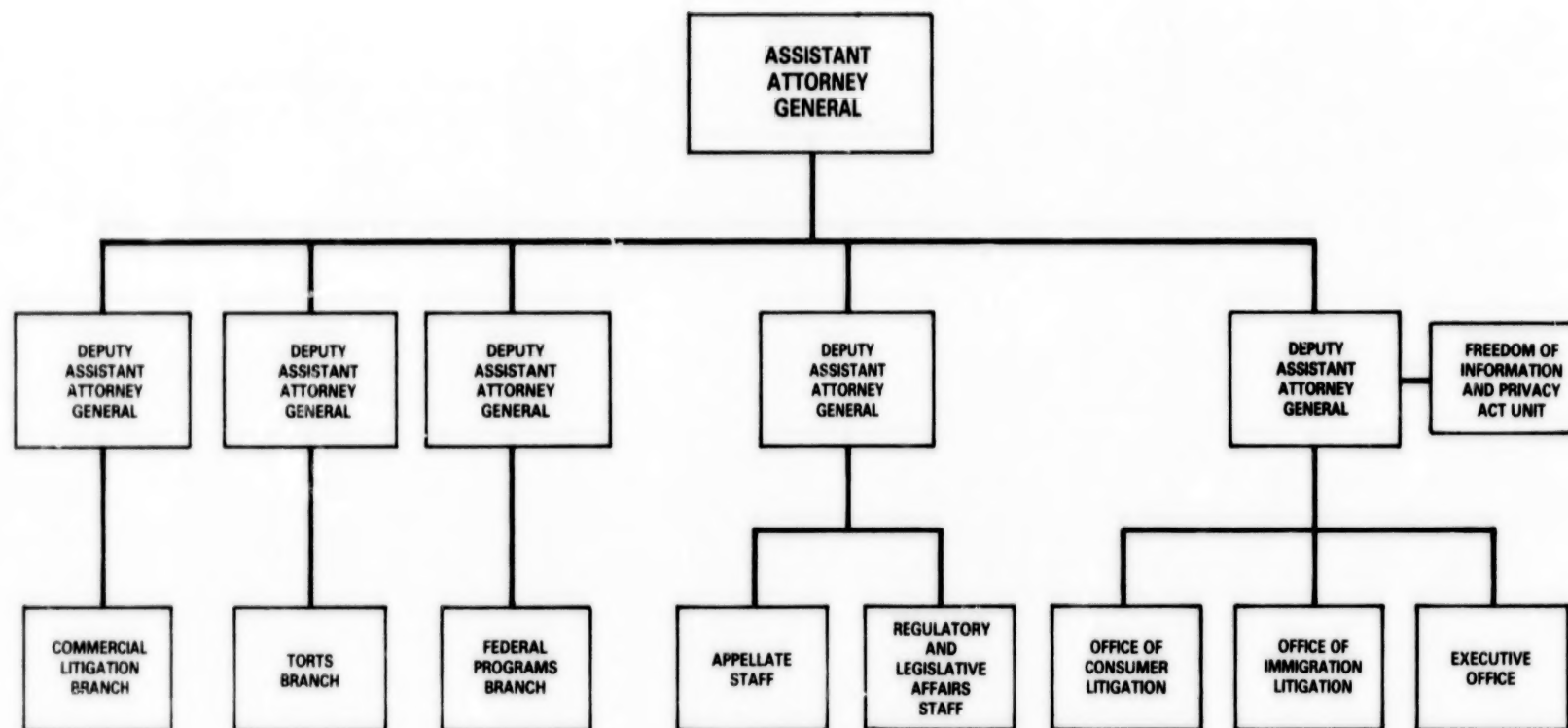
During 1985, the Civil Division appreciably advanced several of the priority objectives of the Attorney General for the Department and the government as a whole.

- *Waste, Fraud, Abuse, and Mismanagement.* The Division continued to improve the effectiveness of government efforts to eliminate waste, fraud, abuse, and mismanagement. Division attorneys who specialize in fraud matters presented numerous lectures on fraud recovery to auditors and investigators working for the Inspectors General of numerous agencies, including the Departments of Defense, Labor, and Health and Human Services; the General Services Administration; and the U.S. Postal Service. In the aftermath of the Supreme Court's *Sells* decision, the Division provided

written materials and a number of lectures to Inspectors General personnel on the use of grand jury materials in civil litigation. Division attorneys continued to participate actively in the joint Department of Defense and Department of Justice Defense Procurement Fraud Unit. Established in 1982, this Unit gives coordinated, full-time attention to eliminating fraud in this area and to coordinating the criminal and civil prosecution of identified crimes. Furthermore, the Division continued to work with the Office of Management and Budget and congressional committees and developed legislation, recently introduced in Congress, that will provide administrative remedies for lesser cases of fraud. Such a remedy would safeguard the government's interests while avoiding the costly process of litigating small cases.

- *Debt Collection.* The Division's efforts continued to improve the collection of debts owed to the United States as a result of defaulted loans, settlements, judgments, and other court imposed obligations. The Attorney General has assigned the lead role in coordinating departmental collection activities to the Assistant Attorney General of the Civil Division. The Division has worked to automate debt records, to advise and assist other agencies in collecting their debts, and to promote legislation to enhance the ability of the government to collect these debts. The Assistant Attorney General was instrumental in establishing direct deposit and electronic funds transfer systems to deposit collections in the Treasury more rapidly. These systems have reduced the time between collection and deposit from weeks to days and have saved the Treasury millions of dollars each year in interest on funds it no longer needs to borrow. The Civil Division alone saved \$24,000 using these systems and should save as much as \$382,300 by the end of 1987. Likewise, the Civil Division significantly improved its own debt collection efforts. Between 1981 and 1984, the Division collected \$301.2 million, and collections in 1985 exceeded \$40 million.
- *Regulatory and Legislative Reform.* The Division established a separate office to advance the Administration's efforts to eliminate unnecessary or inefficient government regulations and to develop and pursue the enactment of legislation to improve the civil justice system. Working with the Department's legislative office and the Office of Management and

CIVIL DIVISION



Budget, the Division assessed the potential effects of legislative and regulatory proposals. The Division advised Congress and other federal officials as to how the courts might interpret the legislation and described the nature of the litigation the government could expect in response to it. The Division worked on the reauthorization of the Equal Access to Justice Act and the development of proposals such as legislation to enhance the government's ability to combat contractor and program fraud. The Division also reviewed and commented on legislation concerning a wide spectrum of issues, including Social Security disability, toxic tort and government contractor indemnification.

- **Immigration.** The February 1983 consolidation of responsibility for immigration litigation within the Division's Office of Immigration Litigation raised both the quality and level of departmental efforts to enforce immigration statutes and to reassert control of the nation's borders. One significant contribution has been the work of Division attorneys in facilitating the return of 2,700 Mariel Cubans to Havana. Litigation concerning these individuals is critical to American fulfillment of a recent agreement with Cuba and presents numerous issues central to Immigration and Naturalization Service immigration policies and practices. Division attorneys defended the Attorney General's discretion to detain Mariel Cubans with a history of antisocial behavior and persuaded the Eleventh Circuit to reverse a district court order staying the exclusion orders against the aliens.
- **Professional Advocacy.** The Division engaged in numerous formal and informal activities to increase the involvement of other federal officials and Department litigators in protecting the public interest through professional advocacy, thereby lessening the need for and costs of civil litigation. Under the auspices of the Office of Personnel Management, the Attorney General's Advocacy Institute, the Legal Education Institute, and agency training programs, the Division's attorneys develop and present seminars, symposia, training sessions, and lectures for over 7,000 federal officials and Department litigators each year on subjects such as fraud, waste, and abuse; medical malpractice; aviation law; admiralty law; asbestos defense; *Bivens*; privilege; Freedom of Information Act exemptions; witness preparation; bankruptcy law and practice; consumer health and safety; debt collection; and procurement law.
- **Cabinet Level Review of Major Litigation.** At the request of the Deputy Attorney General, the Assistant Attorney General of the Civil Division and the Director of the Office of Management and Budget established an annual joint review of major civil litigation.

In coordination with Assistant Attorneys General for the other litigating divisions of the Department, the Civil Division annually provides a detailed written and oral briefing on major pending litigation and its potential effect on the federal budget for the Director of the Office of Management and Budget and his entire executive staff. As in the previous two years, the briefing helped to ensure interagency cooperation, priority, and support for such significant litigation as asbestos and the Washington Public Power Supply System. The briefing also discussed such important groups of Civil Division cases as bankruptcies, *Bivens*, and frauds.

- **Management and Productivity Improvements.** In support of the Attorney General's efforts to achieve real cost savings through new management and productivity improvement initiatives, the Civil Division implemented new productivity enhancing programs and continued to enjoy the benefits of management improvements begun in previous years. These are described in Management Improvements.

Commercial Litigation Branch

The Commercial Litigation Branch litigates claims for the recovery of monies fraudulently secured or improperly diverted from the government; defends international trade policy and litigates cases challenging the imposition or amounts of customs duties; defends and asserts the government's contract and intellectual property rights; collects monies owed the government from contract claims, defaulted loans and judgments; and defends the government's interests as creditor, regulator, and contractor in bankruptcy proceedings.

During Fiscal Year 1985, the workload of the Commercial Litigation Branch grew by 14 percent to a total of 21,961 cases. The Branch received 14,345 new cases and closed 11,690 cases. In defensive litigation, Branch attorneys limited judgments and settlements to \$75 million in suits that sought \$1.8 billion—a savings of \$1.7 billion. In addition, they obtained \$236 million for the government in affirmative litigation.

Examples of the Commercial Litigation Branch's successful representation of the government's commercial interests include the following.

Corporate/Commercial Debt Recovery. During 1985, the Branch actively pursued the Administration's objectives in a series of cases questioning the constitutionality of various provisions of the 1985 Bankruptcy Code amendments.

The Branch represented the Maritime Administration's security interest in vessels in numerous bankruptcies involving shipping companies. The Maritime Administration's claims in these cases total over \$700 million. In another area, Branch attorneys worked closely with the Rural Electrifica-

tion Administration concerning numerous rural electric companies whose poor financial condition has seriously jeopardized billions of dollars in loans and loan guarantees made by the agency. Branch attorneys filed a suit to foreclose and collect on a \$1.1 billion loan to the Big River Electric Cooperative, and are representing the Rural Electrification Administration's \$700 million loan claim in the bankruptcy proceeding of Wabash Valley Power Association, an Indiana cooperative that participated in the now-terminated Marble Hill nuclear power plant. Branch attorneys continued their representation of the monetary and regulatory interests of such agencies as the Federal Aviation Administration, General Services Administration, Equal Employment Opportunity Commission, Customs Service, and the National Mediation Board. Cases include the Chapter 11 proceedings of the Braniff, Air Florida, and Continental airlines. Branch attorneys also continued to present the government's interest in other bankruptcy proceedings, such as those involving steel companies. The most recent is that of Wheeling-Pittsburgh Steel Company which owes the Economic Development Administration over \$90 million.

Branch attorneys are also handling a wide variety of both affirmative and defensive cases involving loans, grants, loan guarantees, mortgages, trusts, insurance, and contracts. For example, the Branch is defending numerous cases involving disputes over coverage under political risk export insurance policies issued by the Export-Import Bank. It filed a suit to foreclose on security and enforce gas purchase agreements in connection with the Department of Energy's \$1.5 billion guaranty of now defaulted loans that financed construction of the Great Plains Coal Gasification Plant in North Dakota. Several actions are ongoing against banks seeking recovery of damages for mishandling of Treasury receipts.

Claims Cases. The Branch defends the United States in litigation before the Claims Court and the Court of Appeals for the Federal Circuit. In 1985, the Federal Circuit adopted the Branch's arguments and sustained in nine lead cases the removal of air traffic controllers from their federal positions for participating in an illegal strike. The decisions in these cases now serve as the basis for disposing of the 3,500 remaining appeals.

Branch attorneys successfully argued in the Federal Circuit for the rejection of a challenge by grain elevator operators to the fee system established by the Department of Agriculture's Federal Grain Inspection Service. The plaintiffs had claimed \$3.5 million in refunds, and their arguments could have nullified the entire fee system, which was first put into place in 1976.

Branch attorneys successfully defended the Army's decision to award a \$75 million contract for handguns. The district court held that the Army had properly precluded the protester from competing in the procurement because the protester had failed pre-qualification. A similar protest by a

second unsuccessful bidder is currently pending in the U.S. District Court for the District of Maine.

The Claims Court adopted the Branch's position that an implied-in-fact contract of bailment cannot be created out of the circumstances surrounding the seizure and forfeiture of imported goods for violation of the customs laws. The court rejected the plaintiff's claim that, once the plaintiff paid a fine and the forfeitures were remitted, the Customs Service would be liable for goods pilfered while they were in the Customs Service's possession. The court held that the circumstances of a forfeiture/remission proceeding rebut any intent on the part of the Customs Service to contract to safeguard the seized goods.

Branch attorneys personally handled the 72 cases worth \$42.5 million filed in the Claims Court pursuant to the Tris Indemnification Act. As of August 1985, the Branch had settled the claims of 44 plaintiffs for approximately \$12.4 million. The Branch anticipates resolving all of the Tris claims for substantially less than the \$56 million estimated by the Congressional Budget Office.

Branch attorneys successfully argued that teachers who are overseas at the time the Department of Defense hires them for its overseas dependents' schools, are not, as a result of the Department's "Point of Hire" criteria, entitled to certain benefits (living quarters allowances, travel allowances, etc.) granted to employees recruited in the United States for employment overseas.

The Federal Circuit, in an *en banc* decision, accepted the Branch's argument that the government could take performance-based actions against federal employees under either Chapter 43 or Chapter 75 of Title 5, U.S. Code. In so holding, the court of appeals overruled the Merit Systems Protection Board's earlier decision that the government could bring performance-based actions only pursuant to Chapter 43. This decision will provide management with more flexibility in taking action against poorly performing employees than would have been available had the earlier decision of the Merit Systems Protection Board stood.

The Federal Circuit reversed a district court decision ordering the Secretary of the Air Force to reinstate with backpay a plaintiff who had been discharged as medically unfit in 1977. The district court had held that the Air Force's determination that the plaintiff was medically unfit for duty was in error. The court of appeals held, in very strong terms, that the district court decision had abused the court's discretion, in that the district court had impermissibly intruded upon an internal military matter and that the responsibility for determining the physical fitness of service members rested with the military, not the civilian courts. This decision establishes an important precedent that the courts must, in certain areas, defer to the judgments of the military.

Frauds. The Branch continues to emphasize the recovery of monetary losses resulting from fraud upon the United States and the corruption of its officials. It directs particular emphasis on abuses of federally-funded programs such as business, housing, and student loan insurance programs, and overpricing in Department of Defense and General Services Administration procurement contracts. During Fiscal Years 1984 and 1985, recoveries from settlements and judgments exceeded \$90 million. Among these recoveries were General Services Administration Multiple Award Schedule Contract cases in which the Branch recovered over \$13.3 million from General Services Administration suppliers who submitted fraudulent and defective pricing data during the negotiation of contracts to purchase computer software and related products or services. In addition, the Branch recovered more than \$6.8 million in cases involving cost mischarging in contracts with the Department of Defense and Department of Transportation.

Fraudulent product substitution cases received special attention in 1985. The Branch is handling three cases involving losses of over \$2 million because of the use of substandard metals for specialized naval and aircraft purposes; two others involving losses of over \$500,000 because of the sale of substandard parts for military personnel carrier and small horsepower engines; and another for approximately \$8 million for the supply of nonconforming material used to defend against enemy radar.

In the Court of International Trade, the Branch recovered \$4.5 million in a settlement of a case alleging customs fraud.

Intellectual Property. The Branch handles a wide variety of cases and matters involving intellectual property in the Claims Court, the Court of Appeals for the Federal Circuit, the district courts, and the Circuit Courts of Appeals. Branch attorneys successfully defended several patent infringement suits seeking large money judgments for the government's use of inventions ranging from disposable hospital slippers to lunar spacecraft. Branch attorneys have also successfully defended the Register of Copyrights in a suit challenging the constitutionality of the Library of Congress deposit provision of the Copyright Law.

Customs and International Trade. Commercial Litigation Branch attorneys handle cases involving the collection of customs duties and the enforcement of international trade policies. Successes in 1985 include sustaining the President's broad authority to implement negotiated textile agreements without the necessity of complying with any procedural requirements; and sustaining the President's authority to negotiate agreements limiting exports of meat products to the United States, resulting in fewer imports than the statutory amount specified for triggering import quotas.

Judgment Enforcement. Branch attorneys personally handle or supervise litigation and other activities to collect

the larger civil judgments resulting from the Division's litigation. They also assist and advise the U.S. Attorneys regarding their delegated judgment enforcement caseload. In an action to collect otherwise uncollectible 1982 judgments totaling \$1.1 million against three defunct insolvent medicare provider corporations, Branch attorneys obtained a new collectible judgment for \$1.4 million under the *alter ego* theory against a related corporation that owned the hospital facilities and equipment leased by the debtor corporations.

Torts Branch

The Torts Branch defends the federal government and its officials in suits seeking monetary damages for negligent or wrongful acts by federal employees that result in damage or injury to private individuals. This Branch handles litigation that ranges from traditional issues in tort law such as medical malpractice and aircraft accidents, to more recent cases involving asbestos, toxic substances, *Bivens* suits, radiation, and regulatory torts. The Branch also prosecutes affirmative tort claims when the government sustains injury or expends resources on behalf of another party, and it maintains an extensive admiralty and maritime practice.

In 1985, the Torts Branch held awards against the United States to a reasonable level despite the resource advantages enjoyed by its adversaries. In those cases closed in 1985, claimants received only 1.7 percent of the total dollar amounts sought from the United States in tort claims. Of the \$11.5 billion sought in those cases, the Torts Branch limited awards to \$199 million, or a \$11.3 billion savings.

The Torts Branch has continued its aggressive defense of asbestos claims. The Branch filed motions to dismiss in several districts in light of the favorable rulings obtained in Maine, Pennsylvania, and Hawaii. The courts dismissed most of the asbestos industry's contribution and indemnity claims against the United States. The Torts Branch, in conjunction with the Appellate Staff, won reversal by the First Circuit of the only adverse judgment entered against the United States in asbestos litigation. The appellate court ordered dismissal, on broad discretionary function grounds, of a suit brought by a shipyard worker against the government in its capacity as owner of public vessels constructed at a private shipyard. In another case, the First Circuit dismissed the third-party contribution and indemnity suits by asbestos manufacturers seeking to hold the United States liable as vessel owner. The court concluded that neither the Longshore and Harbor Workers' Act nor state law provided a basis for liability.

The Branch maintains a superior record in radiation litigation, despite a rapidly expanding caseload. Branch attorneys continue to defend government contractors in suits involving

nuclear activities or nuclear weapons testing. The government prevailed in the largest single Federal Tort Claims Act suit filed to date in terms of the monetary relief sought on behalf of one claimant. The plaintiff in this case alleged that the United States was liable for all of the damages associated with the Three Mile Island nuclear reactor incident, in the amount of \$4.01 billion. The district court denied the government's motion to dismiss but certified its denial for interlocutory appeal. The Third Circuit ruled that all of the claims arose from the regulatory process and that "the making of a judgment of public health and safety after evaluating the happening of an out-of-the-ordinary event at a nuclear power facility" is different from the kind of torts that have previously been considered actionable. All of the plaintiff's claims were barred because they arose out of the governmental discretionary functions. The Supreme Court recently denied plaintiff's petition for a writ of *certiorari*.

The Torts Branch prevailed in the leading case challenging the constitutionality of the Department of Defense Authorization Act of 1985. The court granted the Branch's motion to substitute the United States as defendant for the atomic weapons program contractors being sued by more than 40 plaintiffs. (Plaintiffs had contended that the United States was merely added as one defendant and that the statute was unconstitutional.) In this landmark ruling, the court also granted the Branch's motion for summary judgment, filed on behalf of the United States. Relying on the discretionary function, foreign tort, and combatant activities exemptions to the Federal Tort Claims Act and on the *Feres* doctrine, the court ended the litigation in terms broad enough to include much of the pending radiation litigation in addition to the suits directly controlled by the ruling.

Agent Orange litigation, in which members of the U.S. military in Vietnam claim exposure to this toxic defoliant, involves millions of dollars in money damages against the government. During the past year, the Torts Branch obtained dismissal of all claims against the United States. The court also recently granted a Torts Branch motion to dismiss all third party claims. Appeals of these favorable rulings are pending.

During the past year, Branch attorneys became increasingly active in the defense of *Bivens* cases, or personal suits for money damages against federal officials based on their official actions. *Bivens* litigation is highly complex since it covers the entire spectrum of governmental activity, from law enforcement to contract disputes. In addition, the law in this area is still developing and is subject to rapid change. The Branch's record in *Bivens* suits is quite impressive, given that these cases require from 20 to 50 percent more attorney and support time than cases filed solely against the government. The government has received favorable judgments in over 99 percent of the 11,000 *Bivens* cases filed in the past decade.

Torts Branch attorneys continue to defend the United States effectively in regulatory torts suits. In these cases, plaintiffs seek compensation for injuries stemming from the alleged failure of federal regulatory agencies to execute their inspection, examination, and enforcement responsibilities properly. In recent years, suits have involved such diverse regulatory functions as mine safety, food and drug laws, and other consumer protection activities.

The Torts Branch represents the United States in aviation cases arising from accidents involving air carrier, military, or other general aviation aircraft. In a major aviation case, the Torts Branch convinced the district court to dismiss as non-justiciable political questions most of the negligence claims against the government arising out of the downing of the KAL-007. After discovery, Branch attorneys filed a major summary judgment motion on the remaining claims of air traffic control negligence and expect a favorable decision on the motion. The Torts Branch has worked closely with the Federal Aviation Administration in coordinating administrative claims which have arisen out of air carrier and ground vehicle runway collisions in Alaska and North Dakota, and has begun intensive preparations for the claims and litigation expected from the Delta 191 Dallas/Fort Worth crash. The Torts Branch continues to handle complex, multimillion dollar cases arising from virtually every kind of flight operation, including general aviation, package express, military, corporate, fire-bomber and charter flights.

The Branch is responsible for admiralty and maritime litigation, with cases ranging from individual seaman injuries to massive shipping disasters. Affirmative admiralty claims continue to provide the Torts Branch with its largest area of monetary recoveries. These cases involve vessel pollution, cargo, lock damages, wreck removal, and ship mortgage cases. An example of the kind of affirmative litigation in which the Torts Branch engages is the M/V WELLWOOD case. The M/V WELLWOOD grounded upon Molasses Reef, a marine sanctuary off the Florida coast, causing severe damage to the reef and the surrounding area. Even before the vessel was removed from the reef, Torts Branch attorneys were on the scene and taking discovery as a predicate to the filing of suits seeking both civil penalties and damages for destruction of the reef. The Branch filed suit shortly thereafter, seeking several million dollars on behalf of the United States. Active discovery is now underway.

Federal Programs Branch

The Federal Programs Branch enforces and defends Federal civil programs, policies, and decisions. While most of its litigation is defensive in nature, the Branch also initiates affirmative suits to remedy statutory and regulatory violations. The Branch represents virtually all of the govern-

ment's agencies and officers, including Members of Congress, the federal judiciary, and Cabinet members when they are sued.

The litigation of the Federal Programs Branch profoundly affects the federal Treasury, particularly federal entitlement expenditures. Government entitlement programs attract civil litigation because interest groups typically bring suits challenging restrictive statutory provisions and regulations enforced by the administering agencies. Changes sought in these entitlement programs can, over the life of the program, involve billions of dollars of benefits.

Cases involved in the Branch's litigation are included in nine functional areas: 1) regulatory enforcement (affirmative suits); 2) government employment (public and regulated private employment practices); 3) freedom of information and privacy; 4) human resources (Social Security, medicare/medicaid, food stamps, and health planning); 5) housing and community development; 6) national security and foreign relations; 7) Interior, Agriculture and Energy; 8) interstate and foreign commerce; and 9) independent agencies and government corporations.

As in previous years, the Branch continued this year to defend large and complex litigation—the most prominent being the bond default of the Washington Public Power Supply System. This litigation encompasses some 120 separate parties, over 150 million pages of documents, and \$15.6 billion in claims against the government. Civil Division attorneys are representing the government in a court-ordered deposition program involving four simultaneous depositions every working day. To handle this increasing workload, the Civil Division established a field office in Portland, Oregon, in 1984. Moreover, to increase economy and efficiency, the Branch uses attorneys from the Bonneville Power Administration, the principal federal agency defendant in these cases. The Branch also made extensive use of automated litigation support services to create a computerized data base of relevant Washington Public Power Supply System documents.

The Branch was also involved in other important energy litigation. In one case, the Branch successfully defended the first of several anticipated challenges to a marketing policy of the Bonneville Power Administration designed to increase revenues from the sale of transmission space on high voltage power lines. The new marketing policy, implemented in September 1984, is expected to produce up to \$80 million in additional yearly revenues for the Bonneville Power Administration.

The Branch has recently been handling 30 cases filed by small refiners that purchased royalty crude oil from the Department of the Interior through leases on federal lands and the Outer Continental Shelf. The refiners claim that the Department of the Interior overcharged them for the oil in

violation of Department of Energy regulations. Through negotiations, Branch attorneys have settled half of these lawsuits, which claimed approximately \$200 million, for \$17.7 million. A recent decision by the Temporary Emergency Court of Appeals adopted the Branch's argument that sovereign immunity bars this kind of action against the United States. This ruling should preclude another potential \$600 million in claims against the government.

In defending the President's programs, the Branch has also handled many cases of international significance during the past year. For instance, the Branch obtained a dismissal of a class action suit which alleged constitutional and statutory violations as well as violations of the United Nations Trusteeship Agreement and Charter. Plaintiffs sought a court ordered cleanup of the Bikini Atoll. The government, in return for the dismissal of the law suit, formally agreed that it favors rehabilitation of the Bikini Atoll and reaffirmed that it favored resettlement of the Atoll. Had the court ordered the cleanup of the Atoll, it could have cost the United States up to \$200 million.

In a case that could have affected the national security of the United States, Branch attorneys persuaded the district court in Hawaii to stay the third-party tort claim of Ronald Rewald in bankruptcy proceedings pending the completion of separate criminal proceedings against Mr. Rewald for fraud, perjury and income tax evasion. The criminal indictment denied Mr. Rewald's claims that the company with which he was involved, and may have defrauded, was a front for the Central Intelligence Agency. The stay of the civil case is significant because it prevented the possible unauthorized disclosure of national security information during the proceedings.

The Branch is defending a constitutional challenge to the printing and binding of the prayers of the chaplains of the House and the Senate. The plaintiff claims that the expenditure of federal funds for this purpose violates the Establishment Clause and is seeking to enjoin the Government Printing Office from printing and binding the prayers and to prevent the Secretary of the Treasury from disbursing funds for that purpose.

In another case, the Branch was instrumental in upholding regulations restricting the number of government contracts that must contain prevailing wage requirements. Organized labor groups challenged eight new Service Contract Act regulations, but the courts upheld seven of the regulations, which the Department of Labor estimates will save approximately \$124 million a year in government contracting costs.

The Branch recently prevailed in a significant case involving highway safety. The plaintiff contended that the Department of Transportation required the states to allow longer and wider trucks on more highways than permitted by recent federal truck size legislation. The government was victorious on virtually all issues in this case, a result that could save the

nation's economy as much as \$450 million. In addition, the Branch continued its case against General Motors seeking the recall of 1.1 million "X-cars" and the imposition of over \$4 million in civil penalties.

The Branch is also handling several significant cases involving health care and social issues. The Branch has been defending against a constitutional challenge to a section of the Deficit Reduction Act of 1984. This new statute freezes, for a 15-month period, physician charges to patients enrolled in Part B of the medicare program. The plaintiffs contend that the freeze violates their due process and equal protection rights. The plaintiffs' attempt to obtain a preliminary injunction to stop the freeze was unsuccessful. The government's motion for summary judgment is now pending. In another case, the court upheld regulations expected to save hundreds of millions of dollars and to alter reimbursement rates and the manner of reimbursement for outpatient kidney dialysis under the medicare program.

Finally, the United States intervened in a case challenging the constitutionality of the Equal Access Act. The district court ordered a school district to allow a religious club to meet on the school premises during noninstructional periods. The effect of this case will be widespread, as the court acknowledged that public secondary schools receiving federal financial assistance cannot discriminate against student-initiated clubs on the basis of their speech, whether religious, political, or philosophical in nature, if the schools allow noncurriculum-related student clubs to meet on high school premises during noninstructional periods.

Appellate Staff

The Appellate Staff defends the interests of the federal government in litigation in federal and state courts of appeals and prepares documents for the Solicitor General to file in the Supreme Court. Further, the Staff analyzes adverse trial court decisions and files and prosecutes appeals if the government's interests are to be fully protected.

The Appellate Staff received or initiated 3,951 new cases during 1985, thereby increasing its pending workload by 21 percent to an end-of-year total of 3,053 cases. The Staff terminated 3,420 cases during the same period. In spite of this burgeoning caseload, the Staff maintained its excellent record in obtaining favorable decisions: 82 percent in Supreme Court decisions and 83 percent in appeals courts' decisions. This record is noteworthy because the cases handled by the Appellate Staff are ordinarily those lost in district court.

During the past year, the Appellate Staff handled a variety of cases of national importance. The Staff successfully used the *Feres* doctrine to prevail in a suit filed under the Federal Tort Claims Act challenging certain military personnel decisions. The Supreme Court agreed with the government's

argument that the complaint struck at the heart of military command and that such decisions are protected from scrutiny by civilian courts under the *Feres* doctrine. This decision will have significant implications for other litigation such as Agent Orange and atomic radiation cases, which involve claims totaling \$14 billion.

The Appellate Staff successfully defended two significant Freedom of Information Act challenges. In the first, the plaintiff sued to have appointment books of high government officials defined as "agency records" and thus put them under the jurisdiction of the Freedom of Information Act. Based on the Staff's arguments, the Court concluded that appointment materials that "... are created solely for an individual's convenience, that contain a mix of personal and business entries and that may be disposed of at the individual's discretion" are not agency records and thus are beyond the reach of the Freedom of Information Act.

In the second case, the Staff successfully argued that, in essence, a federal agency's final budget request was not subject to disclosure under the Freedom of Information Act "... because the President bears the ultimate responsibility for submitting a final budget proposal to the Congress, [and] recommendations made to him by the agencies (through OMB) are predecisional deliberative interagency memoranda exempt from disclosure ..."

These two important cases will control the disposition of numerous Freedom of Information Act claims at the agency and district court level. Moreover, the ruling in the second case will greatly assist the Office of Management and Budget in exploring budgetary options with agencies without the "fear of publicity" concerning unadopted, intra-executive branch budget recommendations for particular programs.

In addition, the Appellate Staff obtained a decision favorable to the Treasury involving the payment of large sums of Social Security disability benefits. In this case, the district court held that the Secretary of Health and Human Services violated equal protection by restoring Social Security disability benefits to persons whose benefits had been terminated and who had pending administrative appeals while refusing to restore benefits to persons whose benefits had been terminated but who received final administrative determinations upholding their terminations. The court of appeals reversed the district court and held that it was reasonable for the Secretary of Health and Human Services to restore benefits only to those persons who had not received a final administrative decision. The immediate effect of the ruling was a savings to the Treasury of between \$82 and \$97 million.

In a major action, the Appellate Staff saved the government a potential \$124 million plus a possible \$10 million special appropriation to cover costs. A labor union and several of its members challenged the Secretary of Labor's discretionary budget allocation of \$25 million under the

Trade Act for a training program for workers affected by foreign trade. The district court ruled in favor of the plaintiffs and ordered the Secretary of Labor to reimburse up to \$124 million in Department of Labor 1982 funds, which had lapsed to the U.S. Treasury, to thousands of workers. The Staff successfully obtained an emergency stay pending appeal in the District of Columbia Circuit Court. Subsequently, the court upheld the Staff's arguments that a lump sum appropriation "leaves it to the recipient agency . . . to distribute . . . funds as it sees fit . . ." This victory for the government prevented a potential loss of \$134 million and should shield from review many allocation decisions made under a lump sum appropriation.

The Staff successfully argued on behalf of the government that the Equal Access to Justice Act does not authorize awards of attorney fees in constitutional and statutory actions "analogous to" actions brought against state officers. In an *en banc* decision, the Eighth Circuit Court accepted the government's arguments, based on legislative history, that the plaintiff's requests for attorney fees were not authorized by the Equal Access to Justice Act. This decision was helpful in other circuits where the issue was also successfully litigated. This result represents a substantial long-term savings for the government by reducing its future liability for attorney's fees.

Office of Consumer Litigation

The Office of Consumer Litigation is responsible for litigation under federal statutes that protect public health and safety and that regulate unfair and deceptive trade practices in interstate commerce.

The Office initiated or received 369 new cases during 1985. At the end of the year, the Office had 735 cases pending, a slight increase over the previous year. In addition, the Office secured over \$2 million in judgments for the government this year. At the same time, it maintained its traditionally high success rate by obtaining favorable decisions in 92 percent of the cases brought to judgment.

The Office initiates affirmative litigation to ensure that unsafe and adulterated foods do not reach the marketplace, to protect the integrity of the drug approval process, and to enforce federal policies in the regulation of foods. Affirmative litigation also involves such areas as hazardous and unsafe household products, unfair debt collection and consumer credit practices, franchising, door-to-door and mail order sales, unfair and deceptive advertising practices, and cigarette and automobile labeling.

Additionally, the Office defends the government in challenges to federal policies and initiatives aimed at protecting the public in their purchase of food, drugs, devices, and other consumer products. The Office also handles consumer litigation at the appellate level.

In addition to specific casework, the Office of Consumer Litigation offers advice and counsel on pending and potential litigation and comments on proposed consumer legislation to such agencies as the Federal Trade Commission, the Food and Drug Administration, and the Consumer Product Safety Commission. The Office also serves as the Department's central clearinghouse and resource point for consumer programs and responds to state governments on issues of common concern to federal and state officials.

In 1985, the Office actively pursued odometer fraud, conducting major investigations in a number of states. Recent enforcement activities resulted in a series of successful prosecutions of used car dealers in Tennessee, Rhode Island, and Georgia. In one judgment, the court imposed a fine of \$260,000, the largest fine the government has obtained in an odometer tampering matter.

The Office also successfully prosecuted numerous criminal violations of the Food, Drug, and Cosmetic Act and related acts in other affirmative suits. The results that the Office secured in these prosecutions included the conviction of a major drug firm and three of its medical officers for failure to report adverse reactions to a new drug which involved potentially fatal liver damage; the conviction of another major drug firm and one of its medical officers for failure to report adverse reactions to the arthritis drug "Oraflex"; the guilty plea of a large pharmaceutical company for introducing adulterated and misbranded infant formula into interstate commerce; and the successful conclusion of three cases involving violations of the ban on the distribution and use of a growth hormone used in cattle.

In defensive litigation, the Office won a number of major appellate victories in 1985. In one case, the circuit court adopted the government's position that starch blockers are drugs and cannot be sold without prior Food and Drug Administration approval. In another case, the court ruled in favor of the Food and Drug Administration's approval of aspartame, more commonly known as Nutrasweet.

In Federal Trade Commission litigation, the Office filed a suit against a large consumer lending firm, alleging age discrimination in the firm's loan policies. In a preliminary ruling in this suit, the court upheld the government's right to seek civil penalties and redress for Equal Credit Opportunity Act violations, and it upheld the constitutionality of the act against an equal protection challenge. Finally, the Office successfully concluded a suit against a land sales firm requiring payment of almost \$2.5 million into a trust fund for past customers.

With respect to Consumer Product Safety Commission matters, the Office was successful in its appeal of an adverse district court judgment that dismissed the government suit against a distributor of automatic baseball pitching machines for failing to report a defect to the Consumer Product Safety Commission. The Office also obtained a permanent

injunction to stop distribution of certain prescription drug vials that were not child resistant.

Office of Immigration Litigation

The Office of Immigration Litigation defends U.S. interests against challenges to the government's policies, programs, and initiatives under immigration and naturalization laws. The Office handles a wide variety of immigration cases, the most prominent of which include class action suits attempting to halt or otherwise inhibit enforcement of the laws.

Largely as a result of the Mariel Cuban litigation, the caseload of the Office of Immigration Litigation increased almost 400 percent during Fiscal Year 1985. While receiving 4,911 new cases and closing 1,881 cases, the Office ended the year with a total pending workload of 3,797 cases. In spite of the increasing number and complexity of cases, the Office maintained a remarkable rate of success in 1985, obtaining victory for the government in 97 percent of appellate petitions for review of deportation orders. Of the five Supreme Court cases pending in 1984, all were decided favorably for the government as were the two cases heard by the Court in 1985. Examples of successful litigation follow.

A consolidated action pending in the Northern District of Georgia challenges the exercise of the Attorney General's discretion to detain Mariel Cubans with a history of antisocial conduct and involves a claim by these aliens that they are entitled to asylum as a persecuted social group. These cases are of paramount importance to United States implementation of a recent agreement with Cuba and present numerous issues central to the Immigration and Naturalization Service's immigration policy and practices. The district court set aside the exclusion orders of all class members, preventing the United States from obtaining the benefit of its agreement with Cuba. In July 1985, the Eleventh Circuit reversed the district court order after previously having granted interim relief that allowed the deportation of serious criminals. Additionally, about 1,100 Cuban detainees have filed individual *habeas corpus* cases seeking review of Immigration and Naturalization Service parole denials, and detainees have filed another 600 cases seeking to block deportation based on their social group asylum theory. The Office has handled the bulk of the work on all of these cases, and has succeeded in removing a major hurdle in the process to return the excludable Mariel Cubans. Prior to Cuba's May 1985 suspension of the repatriation agreement with the United States, the government had deported 201 criminal Mariel Cubans to Havana.

In another action, the plaintiff seeks to enjoin the Immigration and Naturalization Service's further use of a detention facility in Houston, Texas, which was constructed,

owned, and operated by a private company, pursuant to a contract with the Immigration and Naturalization Service. Given the Immigration and Naturalization Service's increasing use of and dependence upon private detention facilities, the issues presented are of paramount concern to the Immigration and Naturalization Service as well as to other agencies that make use of similar facilities.

One landmark case involved a challenge by a class of Haitian aliens to the government's policy of detaining aliens who are not eligible for admission to this country. Reversing an unfavorable panel decision, the Eleventh Circuit *en banc* issued a far-reaching ruling that reaffirmed the broad authority wielded by the executive branch with regard to aliens and absolved the government of any constitutional violations. The Eleventh Circuit Court further held that high-level executive officials such as the President and the Attorney General have the authority under the Immigration and Nationality Act to draw distinctions between classes of aliens on the basis of nationality. In March 1985, the Supreme Court affirmed the decision on other grounds and remanded the case for further proceedings.

Finally, from May to June 1985, the Office of Immigration Litigation took primary responsibility for filing approximately 1,100 civil collection cases in the Southern District of Florida. The Office took this affirmative action against those owners and captains of vessels participating in the 1980 Mariel boatlift who failed to pay previously assessed administrative fines for bringing Cuban nationals without visas into the United States. Within the first four months, the government collected well over \$250,000 in settlements.

Regulatory and Legislative Affairs Staff

Although the Regulatory and Legislative Affairs Staff has only been in existence slightly more than two years, it has played an active role in furthering the Administration's legislative program. Recently, the Staff worked with the Office of Management and Budget and Congress on a bill to control fraud, waste, and abuse and to provide an administrative remedy for small frauds cases. For the 99th Congress, the Staff prepared a more comprehensive proposal embracing new amendments to the False Claims Act. The President announced this proposal, and it has now been introduced in the Congress.

The Staff has also worked with the Office of Management and Budget and the Congress to ensure that the effect on government litigation is considered in the development of new legislation and regulations. For example, the Staff worked with Congress on the reauthorization of the Equal Access to Justice Act, on Social Security disability amendments, on the creation of a federal cause of action for toxic

torts, and on legislation to control the liability of government contractors in the torts system.

Acting in a liaison capacity, the Staff seeks to ensure that the Division is prepared to meet the challenges of new legislation. The Staff works with other agencies to modify regulations that have been challenged in court. In this area, the Staff developed proposals to make technical corrections to the Medical Care Recovery Act, to correct problems created by the large Social Security caseload and inconsistent court decisions in Social Security cases, to substitute the government for federal employees in *Bivens* actions, and to preserve the Attorney General's litigating authority.

In addition to its program and contract fraud proposals, the Staff developed initiatives in court reform. It worked with the Office of Legislative Affairs, Office of Management and Budget and Members of Congress to seek enactment of these initiatives and to respond to both congressional and executive branch inquiries on the Division's views concerning proposals affecting the Civil Division's responsibilities.

Finally, the Regulatory and Legislative Affairs Staff responds to hundreds of public inquiries regarding the Division's activities. To ensure timely responses, recordkeeping programs have been streamlined, and special mail response programs have been established.

Freedom of Information and Privacy Act Unit

The Freedom of Information and Privacy Act Unit docket, reviews, and processes all Freedom of Information Act and Privacy Act requests for Division files and information; prepares annual reports; and serves as a liaison with other divisions and agencies.

Prompt responses to Freedom of Information Act and Privacy Act requests are required by statute. The Unit has continued to respond to requests quickly and efficiently and has increased productivity through the implementation of streamlined processing procedures. During 1985, the Unit prepared amended regulatory language to protect "routine uses" of Civil Division records from challenges under the Privacy Act. It prepared system notices, which will protect five records systems within the Civil Division, for publication in the Federal Register. The effect of these changes will be to expand the number of Civil Division records protected from mandatory disclosure under the Privacy Act.

Management Improvements

In 1985, the Civil Division's performance continued to improve as a result of the hard work of its dedicated staff, its able leadership, and the achievements of effective management programs. Management of the Civil Division is the

responsibility of the Assistant Attorney General and the five Deputy Assistant Attorneys General. They formulate litigation and management policy, participate in critical litigation and settlement negotiations, direct the litigating components, and coordinate Departmentwide debt collection activities. The Division's Executive Office directs and oversees management operations of the Division and provides administrative assistance and resources for the litigating units. It develops and implements management initiatives and subsequently manages those programs. The Executive Office manages the Division's office automation system (AMICUS), as well as management information, litigation support, budgeting, fiscal management, administrative policy, evaluation, personnel, and administrative support systems.

During 1985, the Civil Division realized enormous benefits from various efforts to improve productivity and operations. Some of the most prominent efforts are:

- **AMICUS.** AMICUS is an office automation and communications network system that integrates word and record processing with data base access and advanced data communications. It increases the flexibility and productivity of attorneys and other professional workers by providing direct access to standardized word processing; communications between work stations and among field offices; high-speed electronic printing facilities; and access to Division, Department, and commercial litigation support, legal research, case management and tracking, employee timekeeping, and personnel and financial information systems. In 1985, the Division worked to extend the productivity benefits of this system to 77 percent of all its employees. Evaluation studies have found that AMICUS improves attorney productivity by increasing the proportion of an attorney's time that goes to "thought work" (such as legal analysis, by speeding the conduct of legal research, by improving the quality of that legal research, and by speeding the actual creation of legal documents). Similarly, AMICUS increased the productivity of the Division's clerical workers. It considerably increased the number of pages a clerical could produce in a day and caused a change in clerical work away from simple typing to more independent, paralegal-like duties. In addition, AMICUS greatly reduced the cost of transferring critical documents between cities where the Division has field offices and between buildings in Washington, D.C.
- **Litigation Support.** When confronted with several large groups of cases that required the mastery and effective use of evidence found in millions of pages of written documents and transcripts, the Division began new litigation support programs. The resulting pro-

grams employ contractors and micrographic and computer technologies to enable Division attorneys to control the storage and movement of documents and to manipulate, rearrange, analyze, and retrieve electronically the relevant information contained in the documents. The most significant litigation support efforts have gone to such large and important litigation as that involving asbestos claims, the Washington Public Power Supply System, Agent Orange, as well as over 50 other individual cases and families of cases. These techniques have saved enormous amounts of attorney, paralegal, and clerical time and have enabled Division attorneys to master evidentiary information, to build stronger cases, and to improve the outcome of litigation. In the past two years, the Division has established and operated document centers for several special cases, screened 180 million pages of potentially relevant documents, acquired and microfilmed 12 million pages of vital evidentiary materials, and computerized over 3 million pages of the most crucial evidentiary materials. In addition, these contracts supplied hundreds of thousands of hours of paralegal services for cases with large volumes of documentary evidence that needed to be organized, indexed and searched; for cases requiring large numbers of depositions or having large numbers of documents; and for cases requiring significant quasi-legal services in preparing for or conducting trials.

- *Privatization.* When the Division's growing caseload increased the work in various administrative and technical areas, the Division sought to augment and enhance the scarce resources it had in these areas. Through a series of contracts, the Division has economically and efficiently supplemented and improved the performance of several critical functions. Since 1981, for instance, the Division has gradually added contract assistance to its regular mail and messenger services so that by 1985 a private courier firm did all the pick-up, sorting, and delivery of internal, Postal Service, interagency, and intraagency mail except for routing service within Civil Division buildings. Similarly, the Division obtained contract assistance for the areas of new case classification, docketing, and automated data entry. The number of

classifications and entries grew to several hundred thousand in 1985. Contractors have also assumed a major role in the Division's records management program. The Division employed contract workers to operate file rooms for its Federal Programs Branch, its Office of Immigration Litigation, and its New York offices for the Torts and Commercial Litigation Branches. In addition, the Division obtained a contractor to do the technical development for a new, automated records management system (ARMS) that will, through AMICUS, track the location of all case files and indicate the contents of certain categories of records. In 1985, the Division also added to an existing computer facilities management contract the responsibility for operating the Division's System/38 computer. This enabled the Division to extend the operational hours for the system, to facilitate the greater integration of the System/38 computer in the AMICUS network, and to coordinate more effectively the preventive maintenance and testing procedures for the system. Since 1984, the Division has also made greater use of contractors to perform systems analyses and programming for the System/38 computer. Access to one of the best System/38 programming organizations in the nation has led to great improvements in the system's capabilities. Contractors have developed new software and have contributed several measures that should reduce software maintenance costs substantially.

- *Operational Improvements.* The Division achieved considerable improvement in the quality of its management support services. The Division uses a budgeting and financial management system that combines automation, decentralized decisionmaking, and formal internal controls. In 1985, the Division streamlined financial activities through internal programs and participation in Department and governmentwide programs to improve financial and cash management. These include participation in the Government Charge Card and Travelers Check Programs and Treasury Pilot Draft Payment System. The Division also implemented a direct deposit system, expanded use of electronic funds transfer, and developed a formal internal financial audit program.

Civil Rights Division

Wm. Bradford Reynolds
Assistant Attorney General

The Civil Rights Division was established in 1957 following enactment of the first civil rights statute since Reconstruction. The Division is staffed by 127 attorneys and 223 support personnel organized into eight major enforcement sections.

The Division enforces the Civil Rights Acts of 1957, 1960, 1964, and 1968; the Voting Rights Act of 1965, as amended in 1970, 1975, and 1982; the Equal Credit Opportunity Act; and civil rights provisions in numerous other statutes. These laws prohibit discrimination in education, employment, credit, housing, public accommodations and facilities, voting, and certain federally funded and conducted programs. The Division also enforces the Civil Rights of Institutionalized Persons Act of 1980 which authorizes the Attorney General after exhausting settlement prospects, to sue to redress systemic deprivations of constitutional and federal statutory rights of persons confined in state and locally operated institutions.

In addition, the Division prosecutes actions under several criminal civil rights statutes, coordinates civil rights enforcement efforts of the federal agencies whose programs are covered by Title VI of the 1964 Act, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, as amended, and various program specific civil rights statutes and assists federal agencies in identifying and eliminating sexually discriminatory provisions in their policies and programs.

Seven of the Division's enforcement sections have jurisdiction over particular subject areas and the related statutes. The eighth handles legal counseling and appellate matters. Complex, massive, or sensitive cases which cannot be undertaken by the sections are handled by Special Counsel for Litigation.

During the fiscal year, the Division initiated or participated in 111 civil suits, brought 48 criminal actions against 106 defendants, and reviewed over 2,800 submissions under Section 5 of the Voting Rights Act, involving more than 12,000 changes. At the end of the year, the Division had approximately 3,137 cases and matters under its supervision.

Division actions were taken during the year in support of the Attorney General's priorities in the areas of reducing violent crime, strengthening existing programs through management improvements; participating where appropriate in cooperative actions with U.S. Attorneys and their local Law Enforcement Coordinating Committee; and continuing to give prior notice to state governors and at-

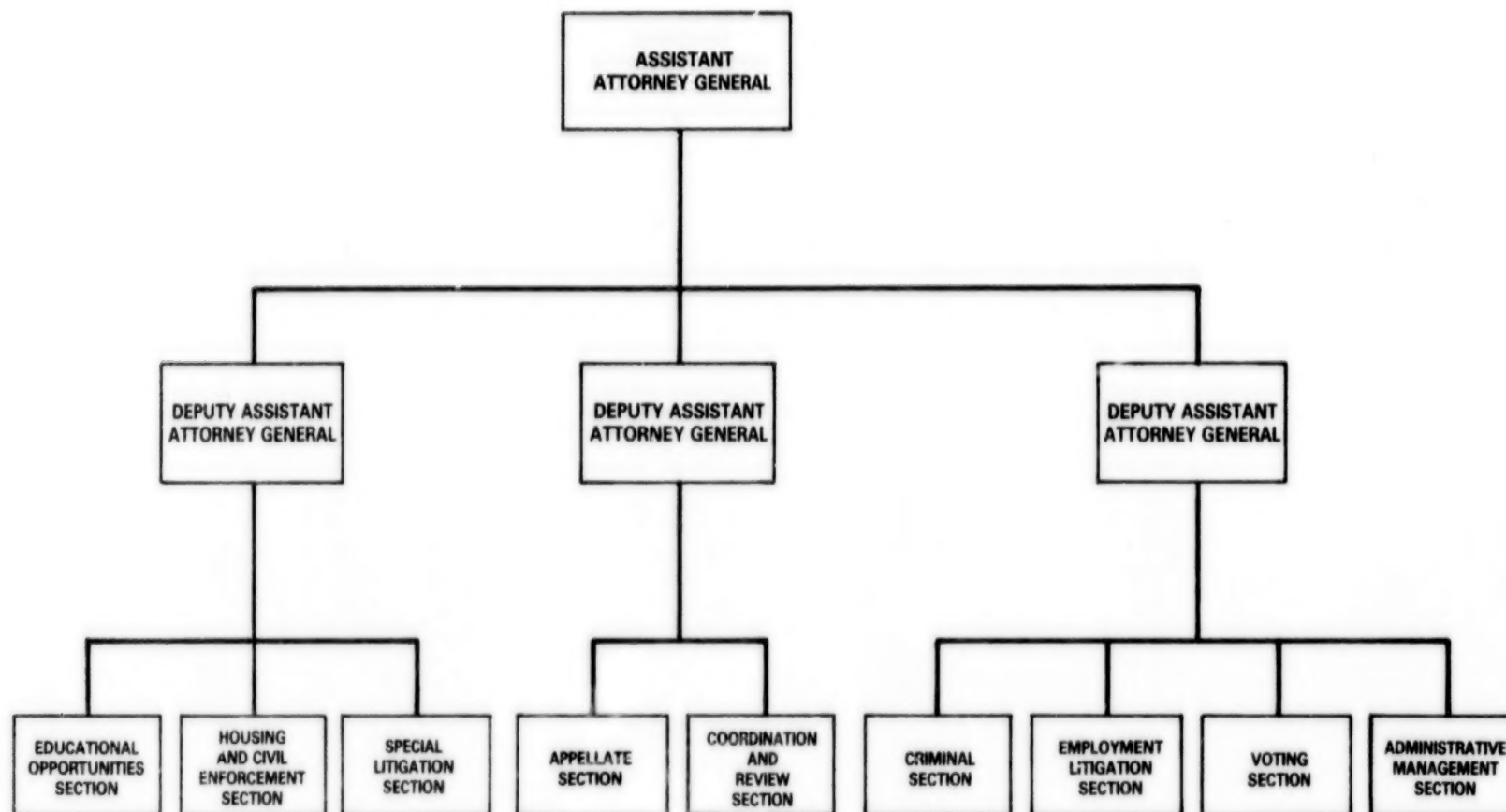
torneys general before commencing any litigation against entities of state government.

In the area of reducing violent crime, the Criminal Section of the Division placed a greater emphasis on the prosecution of incidents involving racial violence, especially on increased Ku Klux Klan activities across the country. During the year, the conviction rate for violations of the criminal civil rights statutes was almost 80 percent.

The Division continued its policy in employment discrimination cases of declining to seek quota relief and, instead, seeking relief for actual victims through backpay and priority job offers and requiring enhanced recruitment and objective merit selection criteria. The Division also reviewed its policy of providing notice to states before commencing litigation. This action was extensively used in resolving conditions found in state facilities during investigations under the Civil Rights of Institutionalized Persons Act. Notice to state officials before the commencement of litigation also assisted in the resolution of issues in the areas of public facilities and busing. Similarly, policy reviews were undertaken and policy modifications made in the areas of busing to provide racial balance in schools, services provided to the institutionalized handicapped, and compliance with federal civil rights regulations by institutions receiving federal funds.

The Division has made significant progress in the development and implementation of management improvements and initiatives. It has refined the organizational changes made in 1982 and has increased the emphasis on management control and direction. In October 1983, the Division reorganized to improve the management, direction, and control of Division operations. The reorganization disbanded the General Litigation Section and in its place created two new sections called the Educational Opportunities Section and the Housing and Civil Enforcement Section. This reorganization reduced the diversity of litigation within any one section, allowing the two new sections to concentrate their efforts. In concert with the Attorney General's guidance, the Division placed a high priority on coordinating civil rights enforcement with departmental components and federal agencies. The Department increased its consultation, negotiation, conciliation, and mediation of issues to aid in diminishing the civil litigation workload of the federal judiciary. Management efficiency was also evidenced in the Division's automated data processing support which resulted in increased cost-effectiveness and productivity in litigation

CIVIL RIGHTS DIVISION



and in correspondence control. Computer resources, for example, are being used to analyze evidence and construct exhibits for use in trials.

Appellate Section

The Appellate Section has primary responsibility for arguing Division and *amicus curiae* cases in the Supreme Court and the courts of appeals, for giving legal advice to federal agencies and other organizations within the Department, and for preparing comments on selected legislative matters. Most of the Section's appeals are from district court judgments in cases originally handled by Civil Rights Division trial sections.

During the 1985 fiscal year, October 1, 1984, through September 30, 1985, the Division filed approximately 17 papers in the Supreme Court and 50 in the circuit courts of appeals, 95 percent of which were prepared by the Appellate Section. During this period, 80 percent of the decisions reaching the merits were in full or partial accord with the Division's contentions. The Supreme Court reached the merits in seven Division cases; five of these were consistent with the government's position. The courts of appeals rendered 29 merits decisions, of which 25 were in accord with the Division's contentions. Highlights of these cases include:

- The Supreme Court reversed a Ninth Circuit decision that Section 504 of the Rehabilitation Act of 1973 permits suits for damages by private litigants. It held that the Act does not abrogate a state's Eleventh Amendment protection, and that such protection is not waived upon the acceptance of federal funds.¹
- The Supreme Court, in a case involving a state's proposed limitation on medicaid coverage for inpatient hospital care, unanimously reversed the Sixth Circuit's judgment that a *prima facie* case of disparate impact had been established. It held that the effect of the challenged policy neither excludes the handicapped from nor denies them meaningful access to the same package of services provided to nonhandicapped persons.²
- The Supreme Court, in a case involving an equal protection challenge of a city government's denial of a special use permit to establish a group home for mentally retarded individuals, held that mental retardation is not a quasi-suspect classification requiring a more exacting standard than normally accorded economic and social legislation.³
- The Sixth Circuit adopted the Division's views as *amicus* by holding that a friendship and commerce treaty with Greece does not exempt Greek companies operating in the United States from the prohibitions on

employment discrimination on the basis of age or national origin.⁴

- The First Circuit affirmed a district court finding that a maritime academy discriminated against women in its admissions policies in violation of the Equal Protection Clause of the Fourteenth Amendment.⁵
- The Eleventh Circuit, in a criminal case, reversed the district court's suppression of depositions obtained in a civil action and thus not conforming to the Federal Rules of Criminal Procedure. It held that absent federal involvement in the taking of the depositions, the depositions of criminal defendants or unindicted coconspirators were admissible over the defendants' claims of Fifth Amendment privilege.⁶

During the 1985 fiscal year, the Section provided 50 written comments for other offices within the Civil Rights Division, other divisions, and other agencies. The Appellate Section also prepared five comments on legislative matters, including proposed fair housing amendments.

Coordination and Review Section

The Coordination and Review Section coordinates, pursuant to Executive Order 12250, the implementation and enforcement by the executive branch of federal laws that prohibit discrimination in federally assisted programs on the basis of race, color, national origin, sex, handicap, religion, and in federally conducted programs on the basis of handicap.

In Fiscal Year 1985, the Section continued its assisting of federal agencies in their developing and publishing of regulations implementing Section 504, a statute prohibiting discrimination on the basis of handicap in the programs and activities conducted by the agencies; and it commented on the proposed or final regulations of 17 agencies. The results of this assistance were: the Federal Reserve System and the Selective Service System published Section 504 regulations in final form; and eight agencies published Notices of Proposed Rulemaking. These agencies were the Department of Commerce, the Architectural and Transportation Barriers Compliance Board, the Federal Deposit Insurance Corporation, the Environmental Protection Agency, the Department of Labor, the Federal Trade Commission, the Federal Communications Commission, and the Department of the Interior.

During Fiscal Year 1984, the Section made arrangements with the Office of the Federal Register to coordinate joint publications of proposed Section 504 regulations for 39 agencies. This fiscal year, 1985, the first joint publication in final form of 18 agencies' regulations was approved by the Attorney General, the Equal Employment Opportunity Commission and the Office of Management and Budget. The

second joint publication of proposed Section 504 regulations for 21 agencies has been reviewed in the Section and has been sent to the Attorney General for approval. The Section has drafted and is reviewing a third proposed joint publication because several more agencies are interested in publishing their regulations together.

To carry out the requirements of the Department of Justice's Section 504 regulations, the Section worked with the component agencies within the Department in the writing of transition plans and in the conducting of self-evaluations of their compliance with Section 504. Additionally, the Section provided staff support to the Architectural and Transportation Barriers Compliance Board and to the Assistant Attorney General for Civil Rights, in his capacity as Chairperson of the Interagency Coordinating Council.

Under Executive Order 12250, the Section reviews the civil rights programs of covered agencies. This is in order to identify programs, provide for technical assistance needs, and to assess their compliance with existing Department standards and policies. During 1985, the Section continued the publishing of the Civil Rights Forum, a quarterly newsletter to federal agencies. In this clearinghouse role, the Section handled a variety of citizen, agency, and congressional inquiries and complaints, including referring matters to the appropriate agencies.

During 1985, the Section reviewed the civil rights implementation plans and Office of Management and Budget Circular A-11 budget responses of 26 agencies. The Department of Education adopted the delegation agreement format, developed in conjunction with the Section for all agencies, that will delegate certain compliance responsibilities to the Departments of Education and Health and Human Services. These two agencies, with the Section's assistance, are now negotiating with other interested federal agencies for the use of the delegation agreement format.

Finally, the Section reviewed and commented upon numerous revisions or amendments to agencies' regulations implementing various civil rights statutes that prohibit discrimination in programs and activities receiving federal financial assistance.

Criminal Section

The Criminal Section enforces statutes designed to preserve personal liberties. Two of these laws, passed during Reconstruction, prohibit persons from acting under color of law or in conspiracy with others to interfere with an individual's federally protected rights. Other statutes enforced prohibit the holding of individual's in peonage or involuntary servitude. The Section is also responsible for the enforcement of the provisions of the 1968 Civil Rights Act which prohibit the use of force or threats of force to injure or

intimidate any persons involved in the exercise of certain federal rights and activities.

During Fiscal Year 1985, the Section reviewed over 9,000 complaints alleging criminal interference with civil rights; approximately 3,000 of these complaints were investigated by the Federal Bureau of Investigation. The results of 56 investigations were presented to federal grand juries; 35 indictments were returned and 13 informations were filed charging a total of 106 defendants, including 67 law enforcement officers. Thirty cases were tried, resulting in conviction for 41 defendants and acquittal for 21 defendants. In addition, the 36 defendants who pled guilty to violations of criminal civil rights statutes led to a success rate of almost 80 percent for the Section.

Due to particular concern about incidents of racial violence around the country, emphasis was placed on the prosecution of these matters. Eleven racial violence cases were filed this year charging 30 defendants. Six of these 11 cases involved activity of the Ku Klux Klan and charged 16 defendants overall; seven of these defendants have already been found guilty and the remaining nine are awaiting trial. A two-year grand jury investigation of cross burnings and shootings into the residences of individuals living in Iredell and Alexander Counties, North Carolina, resulted in the conviction of three members of the White Knights of Liberty as well as the indictment of nine other members. The indictment charges that the defendants sought on many occasions to intimidate white women and black men from associating with each other by burning crosses at their homes and firing guns into their dwellings.⁷ In Montgomery, Alabama, three persons associated with the Klan pled guilty to setting fire to the offices of the Southern Poverty Law Center which maintains files on Klan activities. All of the defendants were sentenced to prison terms, with one defendant receiving 15 years for his receipt of stolen explosives.⁸ A fourth individual pled guilty and was sentenced to a year's imprisonment for his involvement in another racial incident in Montgomery, the burning of a cross on the residential property of a black county commissioner who had been urging black citizens to boycott a local bank for its alleged discriminatory hiring and lending practices.

Investigations into complaints alleging summary punishment by law enforcement officials continued to account for much of the Section's activity. The Section was successful in its prosecuting of 10 police officers in Puerto Rico who were charged with conspiracy to obstruct justice and 35 substantive counts of perjury regarding their participation in the unlawful killing by police of two independence advocates at Cerro Maravilla. After a month-long trial, the jury convicted all 10 defendants, who were sentenced to serve prison terms ranging from a minimum of six years up to 30 years, with five receiving terms of 20 years or more.⁹ Furthermore, special attention was given to the improvement of the

federal investigative and prosecutive effort in curtailing police misconduct in Puerto Rico. As a result, four cases were filed this fiscal year against six defendants, of whom three have pled guilty, two are awaiting trial and one is a fugitive.¹¹ After two unsuccessful attempts at local prosecution, a federal grand jury indicted a New Jersey state trooper charged with abuse of his authority as a law enforcement official. The victim, a fatigued motorist who had stopped on the side of the New Jersey Turnpike and who had fallen asleep, was taken into custody for drunken driving, became agitated and was then allegedly struck by the trooper about the head with a flashlight and subsequently died. Three other officers have also been indicted for conspiracy to obstruct justice and for perjury relating to the incident.¹² In Tennessee two police officers and three prison inmate/trustees were prosecuted for beating and sexually assaulting a man and his fiancée while they were in custody for traffic related offenses. The indictments led to two cases being filed, resulting in the incarceration of all five defendants, the longest sentence being 10 years.¹³

The Section also continued its efforts to deter the victimization of migrant workers and other minorities in violation of the involuntary servitude and peonage statutes. In Los Angeles, California, four defendants indicted for conspiracy to smuggle Indonesian laborers into the United States via fraudulently obtained nonimmigrant visas pled guilty, while trial continued against two others charged with conspiracy and violating involuntary servitude statutes. The district court began hearing the case after the government successfully appealed the district court's earlier dismissal of most of the substantive involuntary counts. The court of appeals held that the government need not prove physical force or threat of imprisonment in order to establish a violation of the statutes and reinstated the charges. Three of the defendants received probationary sentences and were ordered to pay fines as well as restitution to the victims.¹⁴ Another case alleging involuntary servitude was filed against two wealthy homeowners who recruited illegal aliens to perform domestic work in their homes in Hawaii, California, and Nevada. Recruited predominantly in southern California, the victims were misled as to their working conditions and were subjected to physical abuse.¹⁵

Educational Opportunities Section

The Educational Opportunities Section enforces federal statutes which require nondiscrimination in public education. The Section's enforcement efforts involve elementary and secondary schools, as well as public colleges and universities. The statutes enforced by the Section include Title IV of the Civil Rights Act of 1964, 42 U.S. Code 2000C-6, and the Equal Educational Opportunities Act of 1974, 20 U.S. Code 1706.

During Fiscal Year 1985, preparation and trial of the suit against the public institutions of higher education in Alabama consumed a large share of the Section's resources.¹⁶ Following extensive discovery, a five-week liability trial was commenced the first week of July. Negotiations continued during trial and resulted in the district court approving consent decrees negotiated by the United States with four of the eight defendant institutions.

In other higher education matters, the Section entered into a consent decree resolving allegations of sex discrimination at a Texas institution of higher learning;¹⁷ continued monitoring a 1981 consent decree involving the four-year colleges and universities in Louisiana;¹⁸ analyzed a Title VI referral from the Department of Education concerning the Ohio higher education system; commenced negotiations with the Massachusetts Maritime Academy concerning appropriate measures to remedy a finding of illegal sex discrimination;¹⁹ and renewed settlement discussions with defendants in the Mississippi higher education litigation.²⁰

In the area of elementary and secondary education, the Section devoted considerable resources to a large number of cases where school districts sought modification of existing desegregation orders. In addition, the Section conducted major investigations into a number of districts involving unequal facilities, segregative transfers, and faculty assignments. Several of these matters are being prepared for litigation.

During 1985, the Section also filed two new suits. One suit, a Title VI referral from the Department of Education concerning the high school district in Phoenix, Arizona, resulted in a consent decree using magnet schools to encourage voluntary student desegregation,²¹ and in the other suit, negotiations were continued in a case involving public schools in Bolivar County, Mississippi.²²

In actions in its pending cases, the Section obtained \$45,000 in backpay for a teacher found to have been discriminated against in Lufkin, Texas,²³ and negotiated a consent decree requiring more stringent review by the State of Louisiana of private schools seeking state financial assistance.²⁴ Additionally, extensive discovery and settlement discussions continued in litigation concerning the Charleston, South Carolina, school system.²⁵ Cases in Marshall, Texas,²⁶ Houston, Texas,²⁷ Amite County, Mississippi²⁸ and Talladega, Alabama,²⁹ were terminated when the court determined that full compliance and implementation had been achieved.

The Section launched a major inquiry into alleged disparate funding of minority schools by the Los Angeles Unified School District and targeted for investigation the special education programs of several systems. During Fiscal Year 1985, the Section also increased its enforcement efforts with regard to Native Americans, initiating investigations of

alleged disparate educational opportunities by public school districts in the States of North Dakota, Montana, Idaho, Arizona, and New Mexico. In litigation in which the Section was defending the Department of Education, settlements were reached and dismissal orders entered in suits involving the Peoria, Illinois, school district,³⁰ and the Maryland higher education system.³¹

Employment Litigation Section

During Fiscal Year 1985, the Section filed nine new suits pursuant to Title VII of the Civil Rights Act of 1964, as amended, and other provisions of federal law prohibiting discriminatory employment practices. Consent or litigated decrees were obtained in 10 cases. The consent decrees and other orders entered by the courts provided for the payment of more than \$5,114,000 in backpay to persons identified as having been harmed by the defendants' prior practices. The decrees also provided for priority job offers to such persons, the elimination of unlawful discrimination practices, and the enhanced recruitment of the group(s) previously excluded. In addition, court orders were obtained in one other case,³² holding the defendant liable in a pattern or practice suit and authorizing the Section to engage in proceedings to identify the victims of the unlawful practices.

Consistent with the Division's policy of seeking to vindicate the rights of individual victims and supporting efforts of the Equal Employment Opportunity Commission to obtain voluntary compliance, several suits filed during the year were based upon referrals from the Equal Employment Opportunity Commission which involved allegations of discriminatory practices by relatively small public employers. While the number of jobs covered by the suits was small, the cases were important because they enhanced the Equal Employment Opportunity Commission's ability to obtain relief through negotiations with other employers.

Among the highlights of the year's litigation were the following:

- The entry of consent decrees in four suits, brought against agencies of a state and based upon charges of race and sex discrimination, which together provide for approximately \$1,900,000 in backpay to blacks and women harmed by the practices of those agencies;³³
- The obtainment of a litigated decision providing for backpay of approximately \$2 million to approximately 9,000 women harmed by a state's temporary disability program which discriminated against pregnant workers;³⁴
- The obtainment of a district court decision holding unlawfully discriminatory an "affirmative action" promotion plan for a municipal fire department;³⁵ and

- The obtainment of a consent decree changing a practice of only hiring men for certain correctional officer positions in a large municipal prison system, together with an award of \$950,000 in backpay and priority job offers to the more than 230 victims of that prior practice.³⁶

In addition to its regular docket, the Section devoted substantial efforts and resources during the year to securing compliance with decrees previously obtained. The efforts included not only monitoring, but also trials in three cases in which decrees were previously entered,³⁷ extensive preparation for trial and a settlement on the eve of trial in a fourth,³⁸ and a motion for supplemental relief filed in a fifth.³⁹

During the year, the Section contacted defendants in more than 50 cases to seek modifications to consent decrees previously obtained. The goal was to delete quotas, goals or other preferences to non-victims based on race, sex or national origin, consistent with the Department's interpretation of the decision of the Supreme Court in *Firefighters Local 1748 v. Stotts*, 104 S. Ct. 2576 (1984). Motions asking the court to order such modifications were filed in three cities.⁴⁰ These motions are pending; their ultimate disposition will depend upon the rulings of the Supreme Court and other appellate courts.

During the fiscal year, decrees in four cases which were more than four years old were dissolved with the Section's agreement.⁴¹ In each case, it was concluded that the defendant had complied with the letter and spirit of the decree and that the objectives of the decree had been obtained. In one other case, the court entered an order agreed upon by the parties which deleted the hiring and promotion goals of a decree on the ground that their objectives had been attained and that they no longer served a useful purpose.⁴²

The Section made extensive use of the Division's growing computer resources in the prosecution of suits; and in the identification of persons harmed by the discriminatory practices of the defendants, both in contested litigation and pursuant to consent decrees. For example, pursuant to decrees entered in the cases involving the four state agencies referred to above, claim forms were sent to 13,633 potential claimants.

Housing and Civil Enforcement Section

The Housing and Civil Enforcement Section was established in October 1983. The principal work of the Section involves the preparation and presentation of lawsuits brought under the Fair Housing Act of 1968, 42 U.S. Code 3601-3619, and the Equal Credit Opportunity Act, 15 U.S. Code 1691-1691f. However, the Section is also responsible for Title II coordination with the U.S. Attorneys' offices

and for handling matters relating to discrimination in the provision of municipal services. During the last fiscal year, the volume of Title II matters has increased significantly, with several suits being brought both by the Section and the U.S. Attorneys.

Housing

During Fiscal Year 1985, the Section filed 18 new Fair Housing Act cases of which 11 were successfully resolved through the entry of consent decrees. Nine of the suits filed charged apartment complexes or apartment rental agencies with discrimination on the basis of race.⁴³ The Section successfully resolved four of these cases through pre-suit negotiations and consent decrees were filed simultaneously with the complaints, and a post-complaint consent decree was entered in a fifth case. The actions against apartment complexes were brought in seven different states. Five other cases involved allegations of racial discrimination at time-share developments.⁴⁴ The defendants in these suits controlled the sale of approximately 12,000 time-share units, and one complaint included both Fair Housing Act and Equal Credit Opportunity Act allegations. In three of these suits, the complaints were accompanied by consent decrees. Three of the remaining cases, two in the Houston, Texas, area and one in Ohio, alleged that the use and recordation of racially restrictive covenants violated the Fair Housing Act.⁴⁵ One suit was brought against a real estate broker.⁴⁶

In addition to the consent decrees obtained in suits brought during Fiscal Year 1985, settlement decrees were entered in 10 cases filed in previous fiscal years. Seven of the decrees were entered in cases which alleged that real estate companies selling single-family homes in the Chicago metropolitan area had steered potential buyers on the basis of race.⁴⁷ The other cases, all involving alleged racial discrimination, were brought against the operators of 10 apartment complexes, with over 1,600 units, in Memphis;⁴⁸ the owners of a development in Texas with more than 10,000 time-share units;⁴⁹ and a trailer park owner.⁵⁰

Six other housing cases were authorized during Fiscal Year 1985, but the complaints have not been filed because the Section is conducting pre-suit settlement negotiations.

Credit

During the fiscal year, the Housing and Civil Enforcement Section filed three cases under its Equal Credit Opportunity Act enforcement authority. Two of the suits were against creditors with nationwide operations. In one of these, the complaint alleged discrimination against American Indian applicants who sought to finance the purchase of cars and trucks.⁵¹ The other suit charged a loan company with discriminating on the basis of sex and marital status.⁵² The third credit action was against a time-share development.⁵³ All three cases were resolved through con-

sent decrees that were filed simultaneously with the complaints. Pre-suit negotiations are being conducted in three additional credit suits which were authorized during the year.

Public Accommodations

In Fiscal Year 1985, the Section filed four Title II suits and two others were filed by a U.S. Attorney's office. Three of these cases were resolved by consent decree. Defendants in five of the six cases were the owners or operators of nightclubs or both, which allegedly discriminated against blacks by refusing them admittance, or service, or by imposing different conditions than were imposed for white patrons.⁵⁴ The sixth defendant operated a motel which allegedly discriminated against black patrons by allowing them to rent rooms in only a certain part of the facility.⁵⁵

Special Litigation Section

The Special Litigation Section is responsible for the enforcement of the Civil Rights of Institutionalized Persons Act, 42 U.S. Code 1997; Section 504 of the Rehabilitation Act of 1973, 29 U.S. Code 794, *et seq.*; the Education of Handicapped Act, 20 U.S. Code 1401, *et seq.*; and the Revenue Sharing Act, 31 U.S. Code 1223, *et seq.* These statutes protect the rights of institutionalized and other handicapped persons, and protect the rights secured under Title III of the Civil Rights Act of 1964, which prohibits discrimination in public facilities on the basis of race, color, religion, or national origin.

The Civil Rights of Institutionalized Persons Act, 42 U.S. Code 1997, was signed into law in May 1980. The Act gives the U.S. Attorney General authority to initiate action on behalf of civilly or criminally institutionalized persons where "egregious or flagrant" conditions are believed to exist that deprive those persons of their federally protected or constitutional rights.

In Fiscal Year 1985, the Section took action in 14 cases, including five new cases filed pursuant to the Civil Rights of Institutionalized Persons Act, 42 U.S. Code 1997. The Section successfully resolved a Section 504 action initiated over three years ago by Hinds General Hospital to prevent the Department of Health and Human Services from obtaining access to the hospital to investigate an employment discrimination complaint. In this case, the court signed a stipulation and order of dismissal giving the Department of Health and Human Services the right to receive information related to the complainant's allegations and to do an onsite inspection of the facility to interview necessary personnel.⁵⁶

The Section, under the mandate of the Civil Rights of Institutionalized Persons Act, initiated 12 new investigations this fiscal year. Three investigations were commenced at mental health institutions,⁵⁷ four initiated at mental retarda-

tion facilities,⁵⁸ two at juvenile detention centers,⁵⁹ and three at adult correctional institutions.⁶⁰ At the close of Fiscal Year 1985, there were 26 pending Civil Rights of Institutionalized Persons Act investigations. The Section successfully negotiated and entered into five judicially enforceable consent decrees pursuant to the Act. One settlement remediates conditions at the Rosewood Center, Maryland's largest mental retardation facility;⁶¹ three consent decrees address conditions of confinement in local jails;⁶² and another resolves a lawsuit previously filed against the City of Newark concerning the constitutionality of conditions at Newark City detention facilities.⁶³ Despite attempts to negotiate a settlement agreement, officials of the Commonwealth of Massachusetts refused to enter into an agreement to be filed in court which would remediate unconstitutional conditions at Worcester State Hospital. Consequently, the Section exercised its enforcement alternative under the statute and filed its first contested lawsuit pursuant to the Act involving a mental health facility.⁶⁴

The Section also participated in the final settlement agreement entered by the court in the 10-year-old case involving the mentally retarded residents of the Pennhurst State School and Hospital in which the United States was plaintiff-intervenor. The settlement provides for community living arrangements and services for those class members for whom such placement is appropriate, as well as safe and humane conditions of confinement.⁶⁵

Voting Section

This Section enforces voting laws, including 42 U.S. Code 1971 and 1974 and the Voting Rights Act of 1965, as amended in 1970, 1975 and 1982. These statutes are designed to ensure that all qualified citizens have the opportunity to register and vote without discrimination on account of race, color, membership in a language minority group, or age. The Section also enforces the Overseas Citizens Voting Rights and the Voting Accessibility for the Elderly and Handicapped Acts.

The Section achieves compliance with the statutes through litigation; administrative review of changes of any standard, practice, or procedure affecting voting which occur in a jurisdiction covered by the special provisions of the Acts; or the assignment of federal observers to monitor election-day activities.

In Fiscal Year 1985, four consent decrees in petitions to enforce Section 2 of the Voting Rights Act led cities, counties, and school boards to adopt racially fair districting plans to replace dilutive at-large elections before the end of 1985, including a decree in the Section's first Voting Rights Act lawsuit against a Maryland jurisdiction.⁶⁶ The effectiveness of such Section 2 relief was demonstrated

dramatically when, for the first time in history, black candidates were elected in 1985 to the city council and the school board of Valdosta, Georgia, using election districts adopted respectively under our 1984 and 1985 consent decrees with those political units. In another dramatic development, the end of seven years of litigation was signaled when a federal district court in Alabama, in a Section 2 case on remand from the Eleventh Circuit Court of Appeals, entered its decision that the at-large method of election for the county commission and the school board in Marengo County, Alabama, resulted in a denial of minorities' voting rights and must be replaced by a fair single-member district plan.⁶⁷

Section 5 of the Voting Rights Act requires that covered jurisdictions submit all changes in voting standards, practices, or procedures to either the U.S. District Court for the District of Columbia for judicial review, or to the Attorney General for administrative review. Changes that are not submitted and those that are not successfully precleared are not legally enforceable. The determination of the Attorney General, which must be made within 60 days of receipt of a complete submission, concerns whether the changes have the purpose or effect of discriminating on account of race, color, or membership in a language minority group.

During Fiscal Year 1985, over 2,800 submissions involving more than 12,000 changes were submitted to the Attorney General under Section 5; and 102 objections were interposed to voting changes. The voting changes involved in these objections included: 1) a modification of the North Carolina State House single-member districts plans; 2) plans in the States of Florida and North Carolina that violated the requirements of Section 208 of the Voting Rights Act for allowing illiterate and other voters to obtain assistance from persons of their choosing; 3) three instances where the scheduling of elections or candidate qualification periods disadvantaged minorities in the States of North Carolina, South Carolina, and Texas; and 4) the use of at-large elections in connection with either annexations or numbered posts, and redistricting plans that unfairly denied minorities opportunities for equal participation in the electoral process of counties, cities, and school districts in the States of Mississippi, North Carolina, South Carolina, and Texas. Equally as important, objections interposed by the Attorney General in 1985 or in the earlier years of the Administration led to the adoption and preclearance in 1985 of methods of election that fairly recognized minorities' voting strength in the States of Georgia, Mississippi, and North Carolina.

The Section participated in 17 new cases during the fiscal year; of these the Department was the plaintiff in 16 and *amicus curiae* in one. Six of the lawsuits filed as plaintiff were brought prior to the November 1984 Presidential election to achieve compliance by the States of Alabama, Arkansas, Minnesota, Montana, New Hampshire, and

Wisconsin with the Overseas Citizens Voting Rights Act.⁶⁹ These suits together with a 1984 suit against the State of Colorado⁷⁰ were all resolved by court orders that allowed overseas voters' absentee ballots to be counted for the Presidential election, if they were postmarked by election day and received within 10 to 14 days thereafter.

Other lawsuits filed as plaintiff included: four lawsuits to enforce Section 5 of the Voting Rights Act;⁷¹ five lawsuits to enjoin dilution of minorities' voting rights through the use of at-large election or malapportioned election districts in violation of Section 2 of the Act;⁷² and one lawsuit to compel the State of Arkansas to comply with the voter assistance provisions of Section 208 of the Act.⁷³ Additionally, a brief was filed as *amicus curiae* on an issue involving the availability of attorneys' fees for comments made during the administrative review process under Section 5 of the Act.⁷⁴

The court orders entered in the cases filed by the Section under the Overseas Citizen Voting Rights Act allowed the votes of 2,768 people to be counted in the 1984 Presidential election. Under the special provisions of the Voting Rights Act that authorize the Attorney General to assign federal observers to monitor elections to ensure that the right to vote and to have the vote properly counted is not denied during the election process, 700 observers were assigned to cover 12 elections in 29 counties in five states in 1985. Of this number, 307 observers served in 11 Mississippi counties during the 1984 Presidential election.

To enhance the voluntary compliance of covered jurisdictions, in May 1985, the Section's attorneys and paralegals made followup telephone inquiries to 78 jurisdictions from which it had received no response to a request for either a submission under Section 5 of the Voting Rights Act or for additional information on a pending Section 5 submission. As a result of this action, nearly all of the jurisdictions now have assured us they will take the needed action; and we have already received several submissions.

Section 208 of the Voting Rights Act, a provision to allow a voter requiring assistance because of blindness, disability, or inability to read or write, to obtain assistance from virtually any person that the voter chooses, became effective January 1, 1984. In the same month, the Section notified each state of the Act. The Section's October 1984 review of Section 208 compliance led to a lawsuit and court order against the procedures sought to be used in the State of Arkansas.

In other administrative actions of the Section: in October 1984, the Section's close cooperation with the Department of Defense's Federal Voting Assistance Program resulted in seven lawsuits to ensure that civilian and military citizens overseas would be given a realistic opportunity to vote by absentee ballot. In April 1985, letters were sent to each state, notifying them of the new Voting Accessibility for the Elderly and Handicapped Act which the Attorney General is

responsible for enforcing; and in May 1985 proposed revisions in the Attorney General's guidelines for submissions under Section 5 of the Voting Rights Act were published in the Federal Register to bring the guidelines up to date and to add a new subpart describing the substantive standards followed in the review of submissions.

Management Improvements

During Fiscal Year 1985, the Civil Rights Division undertook several projects to improve productivity. The primary emphasis was the introduction of microcomputers to automate many of the day-to-day tasks, as well as using the equipment to provide better access to automated litigation support systems.

Within the litigating sections of the Division, approximately 50 microcomputers were installed to support two functions, i.e., word processing and litigation support. In regards to word processing, the microcomputers have been used to replace outdated word processing equipment. The microcomputers offer the Division additional features not previously available, such as automated spelling check and improved editing of documents. This has improved the productivity of the Division's clerical staff and reduced the time required to produce legal documents. Along with the acquisition of the new microcomputers, the Division has selectively introduced laser printers which have significantly reduced the time required to produce a document.

In the area of litigation support, the Division significantly increased the level of computer support to the Division's attorney personnel. The additional microcomputer support has provided increased access by the Division's attorneys to automated legal data bases such as JURIS and LEXIS. In addition, the microcomputers have improved productivity through automating tabular tasks that were previously performed manually. For instance, the Criminal Section has been able to improve its control of its voluminous correspondence and also maintain statistics on complaints received from particular geographic areas. The Division also upgraded its equipment and increased its ability to support large data bases maintained at the Department's Justice Data Center. Both of these efforts have significantly improved both the qualitative, as well as, quantitative efforts of the Division's litigation efforts.

The administrative support functions of the Division have also been greatly improved through the introduction of automation. During 1985, the Division replaced its existing 20-year-old filing equipment with an automated system. This project enabled the Division to eliminate its backlog of material required to be filed, as well as improved the response time required for the locating of filed material used by the litigating sections.

CITATIONS

- (1) *Atascadero State Hospital v. Scanlon*, 53 U.S.L.W. 4985 (U.S. June 28, 1985).
- (2) *Alexander v. Choate*, 53 U.S.L.W. 4072 (U.S. January 9, 1985).
- (3) *City of Cleburne v. Cleburne Living Center*, 53 U.S.L.W. 5022 (U.S. July 1, 1985).
- (4) *Wicks v. Olympic Airways*, 745 F.2d 363 (6th Cir. 1984).
- (5) *United States v. Massachusetts Maritime Academy*, 762 F.2d 142 (1st Cir. 1985).
- (6) *United States v. Handley*, 763 F.2d 1401 (11th Cir. 1985).
- (7) *United States v. Suits, et al.*, No. ST-CR-85-37 (W.D. N.C.).
- (8) *United States v. Garner, et al.*, CR No. 85-23-N (M.D. Ala.).
- (9) *United States v. Stoner*, CR No. 85-88-N (M.D. Ala.).
- (10) *United States v. Perez, Casillas, et al.*, CR No. 84-0070 CC (D. P.R.).
- (11) *United States v. Gonzalez*, CR No. 85-239 (D. P.R.); *United States v. Lopez, et al.*, CR No. 85-240 (D. P.R.); *United States v. Felix-Cruz*, CR No. 85-135 (D. P.R.); *United States v. Fernandez-Delgado*, CR No. 85-134 (D. P.R.).
- (12) *United States v. Messerlian*, CR No. 85-134 (D. N.J.).
- (13) *United States v. Huff, et al.*, CR No. 3-84-53 (E.D. Tenn.); *United States v. Douglas, et al.*, CR No. 3-84-54 (E.D. Tenn.).
- (14) *United States v. Mussry, et al.*, CR No. 82-802-RG (C.D. Cal.).
- (15) *United States v. Kimes & Kimes*, CR No. LV 85-134 (D. Nev.).
- (16) *United States v. State of Alabama*, C.A. No. 83-C-1676-S (N.D. Ala.).
- (17) *Zentgraf and United States v. Texas A&M University*, C.A. No. H-79-943 (S.D. Tex.).
- (18) *United States v. State of Louisiana*, C.A. No. 80-3300 (E.D. La.).
- (19) *United States v. Massachusetts Maritime Academy*, C.A. No. 76-1696-Z (D. Mass.).
- (20) *Ayers and United States v. Allain*, C.A. No. GC75-9-K (N.D. Miss.).
- (21) *United States v. Phoenix Union HSD No. 210*, C.A. No. 82-302-PHN-CAM (D. Ariz.).
- (22) *Cowan and United States v. Bolivar County Board of Education No. 4*, C.A. No. 6531-K (N.D. Miss.).
- (23) *United States v. Texas Education Agency (Lufkin Independent School District)*, C.A. No. 5193 (E.D. Tex.).
- (24) *Brumfield v. Dodd*, C.A. No. 71-1316 (E.D. La.).
- (25) *United States v. Charleston County School District, et al.*, C.A. No. 81-50-8 (D. S.C.).
- (26) *United States v. Marshall Independent School District*, C.A. No. M-80-200-CA (E.D. Tex.).
- (27) *Ross and United States v. Houston Independent School District*, C.A. No. 10,444 (S.D. Tex.).
- (28) *United States v. Amite County School District*, C.A. No. 3983 (S.D. Miss.).
- (29) *Lee v. Macon (Talladega County School District)*, C.A. No. 70-251-S (S.D. Ala.).
- (30) *Board of Education of Peoria School District No. 150 v. Department of Education*, C.A. No. 25-2 (N.D. Ill.).
- (31) *Hughes v. Department of Education*, C.A. No. N-76-01 (D. Md.).
- (32) *United States v. Mississippi Dept. of Public Welfare*, C.A. No. 75-108 (WK)-73 (N.D. Miss.).
- (33) *United States v. Georgia Forestry Commission*, C.A. No. C-84-1577(A) (N.D. Ga.); decree entered May 30, 1985; *United States v. Georgia Department of Natural Resources*, C.A. No. C-84-1576(A) (N.D. Ga.); decree entered May 30, 1985; *United States v. Georgia Department of Public Safety*, C.A. No. C-84-1575(A) (N.D. Ga.); decree entered May 30, 1985; *United States v. Georgia Department of Transportation*, C.A. No. C-84-1574(A) (N.D. Ga.); decree entered June 28, 1985.
- (34) *United States v. Rhode Island Employment Services*, C.A. No. 83-0541 (D. R.I.); order entered September 6, 1985.
- (35) *United States v. D.C. Fire Department*, C.A. No. 85-0797 (D. D.C.); order entered April 1, 1985.
- (36) *United States v. Philadelphia Prisons*, C.A. No. 85-4485 (E.D. Pa.); decree entered August 13, 1985.
- (37) *United States v. New Jersey*, C.A. No. 77-2054 (D. N.J.); *United States v. Buffalo (F.D.)*, C.A. No. 1973-414 (W.D. N.Y.); *United States v. San Francisco*, C.A. No. 77-2084 (N.D. Cal.).
- (38) *United States v. Nassau County (police dept.)*, C.A. No. 80-1054 (E.D. N.Y.).
- (39) *United States v. North Little Rock*, C.A. No. LR-C-82-300 (E.D. Ark.).
- (40) *United States v. Buffalo Fire Department*, C.A. No. 1973-414 (W.D. N.Y.); *United States v. Buffalo Police Department*, C.A. No. 1974-195 (W.D. N.Y.); *United States v. Chicago (Police Department)*, C.A. No. 73 C-2080 (N.D. Ill.); *United States v. Chicago (Fire Department)*, C.A. No. 73C-661 (N.D. Ill.); *United States v. Albrecht*, C.A. No. 80-C-1590 (N.D. Ill.); *United States v. City of Indianapolis*, C.A. No. IP 78-388-C (S.D. Ind.).
- (41) *United States v. Crown Zellerbach*, C.A. No. 77-3036 (E.D. La.); *United States v. Nashville-Davidson*, C.A. No. 80-3155 (M.D. Tenn.); *United States v. Waukesha County*, C.A. No. 80-C-140 (E.D. Wis.); *United States v. Maryland Transportation Authority*, C.A. No. H-81-1072 (D. Md.).
- (42) *United States v. San Diego*, C.A. No. 76-1093 (S.D. Cal.).
- (43) *United States v. DiMucci*, C.A. No. 84-C 8632 (N.D. Ill.), complaint filed October 15, 1984; *United States v. David Friedman*, C.A. No. 84-4392 (D. N.J.), complaint filed October 23, 1984, consent decree entered July 22, 1985; *United States v. Wilson-Covington*, C.A. No. C-85-311-WS (M.D. N.C.), complaint filed March 13, 1985; *United States v. Alta Apartments*, C.A. No. C-85-0473G (D. Utah), complaint and consent decree filed April 15, 1985; *Shimkus and United States v. Gersten Companies*, C.A. No. C-83-2141 AJZ (N.D. Cal.), complaint filed April 15, 1985; *United States v. Oak Terrace Apartments*, C.A. No. 85C8932 (N.D. Ill.), complaint and consent filed April 15, 1985; *United States v. Krauss*, C.A. No. CV 85-191 (S.D. Ga.), complaint and consent decree filed May 17, 1985; *United States v. Desmond*, C.A. No. 85-2782-C (D. Mass.), complaint filed July 8, 1985; *United States v. Wheaton Square Apartments*, C.A. No. 85C 07236 (N.D. Ill.), complaint and consent decree filed August 16, 1985.
- (44) *United States v. Hollinger*, C.A. No. 841296C (S.D. Ala.), complaint and consent decree filed November 14, 1984; *United States v. Osprey, Inc.*, C.A. No. 4:85-74-2 (D. S.C.), complaint and consent decree filed January 15, 1985; *United States v. Oceanside Properties, Inc.*, C.A. No. 85-601-CIV-T-15 (M.D. Fla.), complaint and consent decree filed April 4, 1985; *United States v. Treasure Isle*, C.A. No. 85-384CIV-T-17 (M.D. Fla.), complaint filed April 15, 1985; *United States v. Gura Nevada*, C.A. No. CV-LV 85 549LDG (D. Nev.), complaint and consent decree filed July 2, 1985.
- (45) *United States v. University Oaks Civic Club*, C.A. No. H84-4810 (S.D. Tex.), complaint filed December 7, 1984; *United States v. Rodheaver*, C.A. No. H-84-4809 (S.D. Tex.), complaint filed December 7, 1984; *United States v. Conant*, C.A. No. C2-84-2201 (S.D. Ohio), complaint and consent decree filed December 27, 1984.
- (46) *United States v. Roy Shock*, C.A. No. 84-2393-C-3 (E.D. Mo.), complaint and consent decree filed October 15, 1984.
- (47) *United States v. ERA Maggio Realty*, C.A. No. 83C9650 (N.D. Ill.), consent decree entered October 31, 1984; *United States v. Gateway Realty & Builders, Inc.*, C.A. No. 83C9649 (N.D. Ill.), consent decree entered October 30, 1984; *United States v. Red Carpet Contempo Realty*, C.A. No. 84C3431 (N.D. Ill.), consent decree entered December 3, 1984; *United States v. Wildwood Realty, Inc.*, C.A. No. 84C3433 (N.D. Ill.), consent decree

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(48) *United States v. The Sunshine Corp.*, C.A. No. 84-2479 (W.D. Tenn.), consent decree filed January 15, 1985.

(49) *United States v. Bruce Marketing*, C.A. No. H-84-3957 (S.D. Tex.), consent decree entered October 10, 1984.

(50) *United States v. Bob's Mobile City, Inc.*, C.A. No. C84-2479 (N.D. Ohio), consent decree entered November 26, 1984.

(51) *United States v. General Motors Acceptance Corporation*, C.A. No. 84-1608-JB (D. N.M.), complaint and consent decree filed October 25, 1984.

(52) *United States v. Household Finance Corporation*, C.A. No. 84C9415 (N.D. Ill.), complaint and consent decree filed October 31, 1984.

(53) *United States v. Gura Nevada*, *supra*.

(54) *United States v. DeHaan*, C.A. No. M84-4655 (D. Md.), complaint filed December 27, 1984; *United States v. London Victory Club*, C.A. No. 85-853 CIV T-17 (M.D. Fla.), complaint filed May 22, 1985, consent decree filed June 17, 1985; *United States v. Crawdaddy*, C.A. No. 85-854 CIV T-13 (M.D. Fla.), complaint filed May 22, 1985, consent decree entered June 13, 1985; *United States v. Bradtree*, C.A. No. 85-558-N (E.D. Va.), complaint filed August 13, 1985; *United States v. Messina*, C.A. No. CV85-2646 (W.D. La.), complaint filed September 10, 1985.

(55) *United States v. Blazic*, C.A. No. 85-21 CIV T-13 (M.D. Fla.), complaint filed January 8, 1985, consent decree entered July 25, 1985.

(56) *Hinds General Hospital v. Heckler*, No. J82-0654(B) (S.D. Miss.), stipulation and order of dismissal entered March 22, 1985.

(57) Kalamazoo Regional Psychiatric Hospital, Kalamazoo, Mich.; Napa State Hospital, Imola, Cal.; Westboro State Hospital, Westboro, Me.

(58) Belle Chasse State School, Belle Chasse, La.; Fort Stanton Training School & Hospital, Fort Stanton, N.M.; Montgomery Developmental Center, Huber Heights, Oh.; Ellisville State School, Ellisville, Miss.

(59) Los Angeles Juvenile Halls, Los Angeles, Cal.; San Francisco Youth Guidance Center, San Francisco, Cal.

(60) Vacaville Medical Facility, Vacaville, Cal.; Adult Correctional Institution at Golden Grove, St. Croix, V.I.; Cummins Unit, Grady Ark.

(61) *United States v. Maryland*, No. 85-M-277 (D. Md.), complaint filed and consent decree entered January 17, 1985.

(62) *United States v. Bedford County*, No. CIV-4-85-03 (E.D. Tenn.), complaint filed January 15, 1985 and consent decree entered January 17, 1985; *United States v. Ada County*, No. CIV-85-1200 (D. Ind.), complaint filed and consent decree entered May 23, 1985; and *United States v. County of Talladega*, No. CV-85-H-2467E (N.D. Ala.), complaint filed and consent decree entered September 17, 1985.

(63) *United States v. City of Newark et al.*, No. 84-433 (D. N.J.), consent decree entered July 15, 1985.

(64) *United States v. Commonwealth of Massachusetts*, No. 850632MA (D. Mass.), complaint filed February 11, 1985.

(65) *Halderman and United States v. Pennhurst*, No. 74-1345 (E.D. Pa.), final settlement agreement ordered April 5, 1985.

(66) *United States v. Lowndes County, Georgia*, C.A. No. 83106 VAL (M.D. Ga.), December 18, 1984; *United States v. Dorchester County, Maryland*, C.A. No. 84-R-4410 (D. Md.), July 8, 1985; *United States v. County Board of Education of Wilkes County, Georgia*, C.A. No. 185-009 (S.D. Ga.), July 12, 1985; *United States v. City of Bessemer, Alabama*, C.A. No. CV84P-08935 (N.D. Ala.), August 29, 1985.

(67) *United States v. Marengo County Commission*, C.A. No. 78-474-H (S.D. Ala.), September 5, 1985.

(68) *United States v. State of Alabama*, Civ. No. 84-T1394-N (M.D. Ala.); *United States v. State of Arkansas*, Civ. No. LR-C-84-924 (E.D. Ark.); *United States v. State of Minnesota*, Civ. No. 4-84-1114 (D. Minn.); *United States v. State of Montana*, Civ. No. CV-84-266H (D. Mont.); *United States v. State of New Hampshire*, Civ. No. 84-6995 (D. N.H.); *United States v. State of Wisconsin*, Civ. No. 84-C-863-S (N.D. Wisc.).

(69) *United States v. State of Colorado*, C.A. No. 84 K-1875 (D. Colo.).

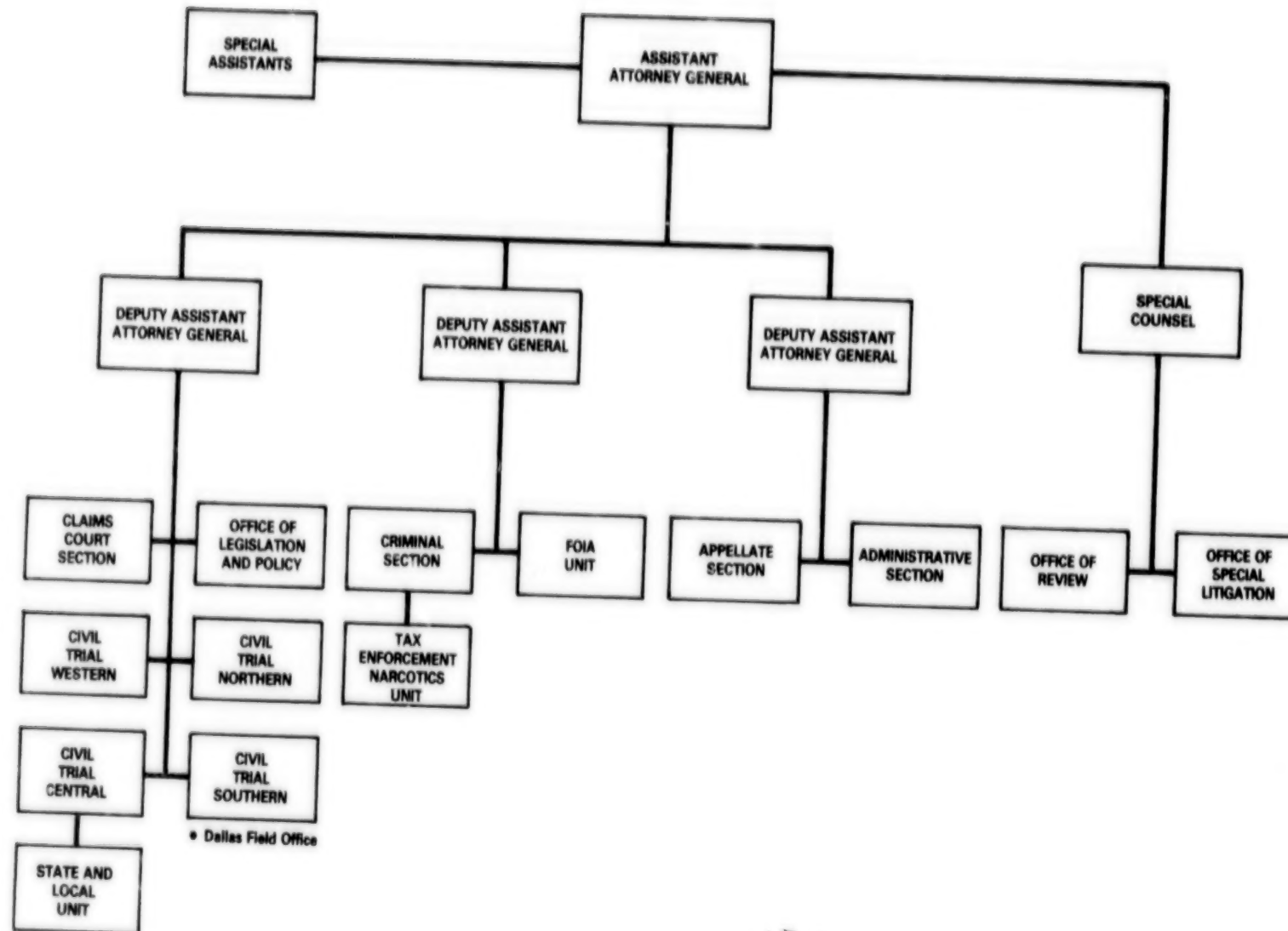
(70) *United States v. City of Barnwell*, C.A. No. 1:84-2508-6 (D. S.C.); *United States v. Orangeburg County Council*, C.A. No. 5:84-2824-3 (D. S.C.); *United States v. State of Texas*, C.A. No. SA-85-CA-2199 (W.D. Tex.); *United States v. Houston County, Alabama*, Civ. No. 85-H-946S (M.D. Ala.).

(71) *United States v. Dorchester County, Maryland*, C.A. No. 84-R-4410 (D. Md.); *United States v. City of Cambridge, Maryland*, C.A. No. R-84-4411 (D. Md.); *United States v. Board of Education of Wilkes County, Georgia*, C.A. No. 185-009 (S.D. Ga.); *United States v. Chaves County, New Mexico*, C.A. No. 85-33-JB (D. N.M.); *United States v. Darlington County, South Carolina*, C.A. No. 4:85-2288-2 (D. S.C.).

(72) *United States v. State of Arkansas*, C.A. No. LR-C-84-918 (E.D. Ark.).

(73) *Leroy v. City of Houston, Texas*, C.A. No. H-78-2174 (S.D. Tex.).

TAX DIVISION



Tax Division

Glenn L. Archer, Jr.
Assistant Attorney General

The Tax Division is responsible for representing the United States and its officers in all litigation arising under the internal revenue laws (other than proceedings in the U.S. Tax Court). This includes both civil and criminal proceedings at the trial and appellate levels. The Division's principal client agency is the Internal Revenue Service, but it also represents other federal departments or agencies in matters involving immunity from state or local taxes.

The Tax Division's primary activities are to collect federal revenues by instituting many types of collection actions at the request of the Internal Revenue Service and defending tax refund and a variety of other suits brought by taxpayers; to provide the Internal Revenue Service with litigation support in the conduct of its extensive investigation, audit, and collection functions; to enforce the criminal tax laws by supervising, authorizing, and, in some cases, conducting criminal tax investigations and trials; and to handle appellate tax cases, both civil and criminal. In its role as the government's legal representative in litigated tax matters, the Division deals with a wide variety of complex and difficult issues that affect the tax reporting obligations and tax liabilities of millions of taxpayers. It must, therefore, coordinate its litigating positions with the administrative policies of the Internal Revenue Service and the tax legislative concerns of the Department of the Treasury. The Division strives to maintain correct and consistent positions in its litigation, and to promote the establishment by the courts of uniform legal principles of taxation that will serve as nationwide guidelines.

Organization of the Tax Division

The Tax Division is divided into seven sections. The Criminal Section authorizes and supervises the prosecution of criminal tax cases nationwide. The four Civil Trial Sections (Northern, Southern, Western and Central) handle all refund suits in the district courts and other civil tax and tax-related litigation in federal and state trial courts. The Claims Court Section handles suits in that forum. The Division's Appellate Section handles appeals of civil cases and many criminal tax cases in the U.S. courts of appeals and assists the Solicitor General in proceedings before the Supreme Court. In addition, there are three offices (the Office of Review, the Office of Legislation and Policy, and the Office of Special Litigation) which report to the Office of the Assistant Attorney General. With the exception of one branch office in

Dallas, Texas, where normally 13 attorneys are assigned, all Tax Division attorneys are stationed in Washington, D.C.

As of September 30, 1985, the Division operated with a staff of 313 attorneys and 29 paralegals. It received 26,571 cases or matters during the course of the fiscal year and disposed of 28,558. At year-end, there were pending 17,188 civil trial, criminal and appellate cases under the jurisdiction or supervision of the Tax Division.

Division Priorities

Despite an increasing caseload, the Tax Division in the past year has continued to focus particular attention and increased resources on several important areas in which there has been significant noncompliance with the tax laws. These include abusive and illegal tax shelters, offshore tax havens, tax protesters and tax enforcement in narcotics cases.

Abusive Tax Shelters. The proliferation of abusive and illegal tax shelters has created a severe burden on the administration of the federal tax system and resulted in significant revenue losses. As of August 30, 1985, more than 382,000 investor returns with tax shelter issues were under Internal Revenue Service audit, and an additional 75,000 were closed unagreed. While the Internal Revenue Code contains provisions which permit taxpayers to reduce their income taxes legitimately—e.g., the investment tax credit, depletion, depreciation, and other credits and deductions designed to encourage capital investment and growth of—many of these same provisions are often used in fraudulent or abusive schemes. Under the Tax Equity and Fiscal Responsibility Act of 1982, the government was authorized to initiate injunctive actions against the organizers and sellers of abusive and illegal tax shelters to curb their current sales activities and future promotions. In addition, significant civil penalties can be imposed on promoters of such shelter schemes. The efficiency and effectiveness of this approach has been substantial.

Litigation to seek tax shelter injunctions and to defend challenges to promoter penalty assessments is handled solely by the Tax Division. On November 1, 1983, the Division established the Office of Special Litigation for the purpose of conducting all of the tax shelter and related litigation under these provisions. That Office now has 21 attorneys to handle its expanding caseload of injunction and penalty actions. As of September 30, 1985, 156 cases involving more than 82,000 investors and \$9 billion in potential revenue

losses had been referred by the Internal Revenue Service to the Tax Division for injunctive relief. Eighty-eight suits have been filed, and 64 injunctions obtained. Thirty-one cases are awaiting trial, and others are being further developed before suit is initiated. In addition, the Office of Special Litigation is currently defending 25 actions involving Internal Revenue Code Section 6700 promoter penalties totaling approximately \$40 million.

Although many of the injunction cases require a full trial on the merits, the Office of Special Litigation has successfully concluded some 50 of its cases through the use of negotiated consent decrees. Each of these decrees resulted in the government's obtaining remedies comparable to those that would have been obtained after a successful trial, including some \$4,529,500 in penalties paid pursuant to the consents, and court orders prohibiting the defendants from engaging in future abusive tax shelter conduct. Violations of the injunction orders or consent decrees obtained in these cases have resulted in criminal contempt convictions. In three instances, promoters were jailed for up to two years for violating injunctions.

In enacting the abusive tax shelter injunction and civil penalty provisions in 1982, the Congress did not in any way curtail the authority of the Internal Revenue Service and Department of Justice to proceed criminally against the promoters of fraudulent tax shelters and similar tax evasion schemes. Moreover, Congress, in the Deficit Reduction Act of 1984, facilitated the government's criminal enforcement efforts in this area by limiting the situations in which a defendant can avail himself of the home venue transfer provisions of 18 U.S. Code 3237(b).

The government's vigorous criminal enforcement efforts against the promoters of fraudulent tax shelters continue. The Tax Division obtained several noteworthy convictions in this priority tax enforcement area during the past year. For example, in *United States v. Charles J. Walsh* (D. D.C.), following a three-year grand jury investigation, Charles J. Walsh, an accountant, pled guilty in March 1985, to mail fraud and false pretense charges in connection with two fraudulent tax shelter schemes involving equipment container leases and government securities. The government was defrauded of \$6,800,000 in tax revenues by the equipment leasing program, and false investor deductions totaling \$10,600,000 were generated by Walsh's schemes. Walsh, who was extradited to the United States from Ireland through the new United States-Ireland Extradition Treaty in December 1984, received a seven-year prison sentence for his crimes.

In *United States v. William and Gail Dunn* (D. Ore.), a husband and wife pled guilty in August 1985, in Portland, Oregon, to substantive income tax violations relating to the years 1978 and 1979. The fraudulent scheme, involving a fictitious Treasury bill futures straddle tax shelter conducted

through purported Cayman Island corporations, resulted in at least \$1,725,000 in falsely claimed investor deductions. During the two years involved, the Duns received \$500,000 in income from the tax shelter scheme.

Additionally, in *United States v. Bruce E. Schulte, et al.* (D. Ore.), a tax shelter promoter and an accountant were convicted of tax crimes for their roles in creating and operating several businesses and foreign trusts purportedly to provide health, welfare, and benefit insurance policies to participants nationwide. The shelter operation used foreign trusts and bank accounts in the Turks and Caicos Islands to conceal the source of funds. Schulte, the principal architect and promoter of the scheme, pled guilty in August 1985, to individual income tax evasion for 1977. James Jones, an accountant who aided Schulte in his scheme, pled guilty to aiding in the filing of a false income tax return by Schulte for 1979.

Finally, in *United States v. Frank E. Forrester, et al.* (W.D. Wash.), four people involved in promoting an illegal tax shelter scheme employing a purported assignment of income arrangement were indicted for, among other things, a *Klein* conspiracy to defraud the United States, substantive income tax offenses, and mail fraud. The scheme resulted in unreported income and fraudulent deductions exceeding \$7 million. Forrester, the architect of the program, and James Russell, a leading salesman, received fees from the program from 1979 through 1982 totaling \$550,000. A third defendant, Lawrence Richey, is a retired Internal Revenue Service agent. Trial is scheduled for January 1986.

Offshore Tax Havens. Criminal tax investigations and prosecutions, whether involving illegal tax shelters, narcotics trafficking, tax protesters, or even general enforcement matters, increasingly have offshore implications. The Tax Division has been instrumental in expanding the use of grand jury subpoenas and administrative summonses to obtain evidence from tax haven entities and banks. The government's ability to obtain such records has contributed substantially to the convictions against narcotics traffickers (e.g., *United States v. Twist, et al.*).¹

The government also broadened its authority to use court-ordered consents (or waivers), referred to as *Ghidoni* consents,² by which the bank customer (typically a target or defendant), in effect, waives the bank secrecy provisions of the foreign country. The government now has obtained favorable precedent in the Second³ and Fifth⁴ Circuits involving such consents. Moreover, the London banking community has been advised by its private counsel that court-ordered consents are *bona fide* protection against liability for disclosing bank records to government investigators. Finally, the Bermuda government is encouraging the use of these consents in lieu of the issuance of unilateral summonses or subpoenas directly to the banks holding the records.

The government can gather evidence in foreign countries by taking advantage of mutual assistance treaties, which are designed to facilitate the exchange of information and evidence between treaty partners concerning crimes covered by the treaty. Presently, such treaties are in force with Switzerland, the Netherlands, and Turkey, and treaties have been signed, but are not yet ratified, with Colombia, Italy, Morocco, and Canada. The Tax Division, in conjunction and cooperation with the Criminal Division's Office of International Affairs, is continuing to engage in the negotiation of new mutual assistance treaties with other countries, including the Federal Republic of Germany, Jamaica, and Thailand.

The Tax Division also has participated with the Office of International Tax Counsel, Department of the Treasury, in seeking to negotiate expanded exchange of information provisions in bilateral tax treaties. Tax Division attorneys are involved in the negotiation of tax treaties with Mexico and the Netherlands Antilles. The Tax Division drafted a model exchange of information provision for use in Caribbean Basin Initiative treaty negotiations, and this model was used successfully in concluding a recent Caribbean Basin Initiative agreement with Barbados, as well as in conducting recent negotiations with Costa Rica and the Dominican Republic.

The Tax Division is also actively pursuing new methods of gathering foreign evidence, primarily focusing on legislative proposals to supplement recent initiatives in the area of tax reform and money laundering.

Tax Protesters. Criminal prosecution of tax protesters remains a priority concern of the Tax Division. While prosecutions of tax protest leaders continue, the Tax Division also increasingly is using a concurrent prosecution approach to such cases whereby multiple and simultaneous indictments are returned against numerous tax protesters in one area. Often, the protesters share a common occupation, employer and/or labor union. For example, in *United States v. Cornelius Overton, et al.* (W.D. Mich.), 10 Grand Rapids, Michigan, area tax protesters were charged in eight indictments issued in March 1985, with income tax evasion (*Spies* evasion) and failure to file income tax returns. The affirmative act of evasion for these cases was the filing of false withholding Forms W-4 with the defendants' employers. Nine members of the group were convicted of the evasion charges.

Similarly, in *United States v. Harold Altman, et al.* (D. Nev.) seven Las Vegas, Nevada, area tax protesters, five of whom were members of the same electrical workers union local, were indicted in March 1985, for failing to file income tax returns and for willfully filing false claims for tax refunds. Each of the seven defendants was convicted. Finally, in *United States v. Dale H. Malquist, et al.* (D. Mont.), three Montana tax protesters, concurrently indicted

in April 1985, for failing to file income tax returns, were convicted and received prison sentences of up to four years.

Another development during the past year in the prosecution of tax protesters has been the use, in certain instances, of felony *Spies* income tax evasion prosecutions pursuant to 26 U.S. Code 7201, where no income tax return is filed but where the tax protester files a false or exempt Form W-4 with his employer. In these cases, the filing of the false withholding form is the affirmative act of income tax evasion. Formerly, such prosecutions were handled as misdemeanor violations of 26 U.S. Code 7203 and/or 7205. The Tax Division successfully used the felony prosecution approach in the contemporaneous tax protest prosecutions in Grand Rapids discussed above. Moreover, in *United States v. George and Marion House* (W.D. Mich.), Chief Judge Wendell Miles issued an opinion for publication holding that the filing of a false Form W-4, a misdemeanor violation of 26 U.S. Code 7205, legally could be used as an affirmative act of income tax evasion pursuant to 26 U.S. Code 7201.

Finally, in an effort to improve legal research in criminal tax protest cases, the Criminal Section developed during the past year a criminal tax protest issue file (Protest) which is available for use on the Department's JURIS computer system. This file is reviewed and updated periodically for use by government prosecutors nationwide.

The civil penalty and injunctive provisions enacted in 1982 are also being effectively used to curb protester activities. Injunction actions have been filed by the Tax Division to prevent the promotion and sale of a variety of protester schemes to evade or avoid taxes, including family or equity trust arrangements, fictitious church organizations, and the like. In addition, the Internal Revenue Service has continued to impose the civil penalty for filing frivolous returns against taxpayers who file protest returns which contain inadequate disclosures to compute the protesters' tax liability. A large number of these penalties were challenged in the district courts by the protesters in Fiscal Year 1984. The number of such cases in Fiscal Year 1985 has decreased substantially, most likely because of the government's earlier success in litigating these cases.

Tax Enforcement in Narcotics Cases. Federal narcotics enforcement efforts have increased dramatically since 1981. In 1983, the President and the Attorney General formed 12 regional Organized Crime Drug Enforcement Task Forces modeled after the prototype narcotics task force that had been operating in south Florida since 1981. These Organized Crime Drug Enforcement Task Forces, which now number 13, are designed to investigate and prosecute major narcotics trafficking organizations through multiagency participation.

The Tax Division has acquired substantial experience and expertise in the area of tax and financial investigations of

narcotics traffickers. In early 1981, the Division took an active and vigorous role in the area with the formation of the Tax Enforcement Narcotics Unit to assist U.S. Attorneys whose resources precluded their handling prolonged and complex tax investigations involving suspected narcotics dealers and their organizations. The Unit generally confined its efforts to the Internal Revenue Service's Southeast Region, but it also assisted the Chicago Financial Crime Task Force in tax investigations and cases involving high-level narcotics traffickers in that area.

The Tax Division now provides nationwide review and coordination in Organized Crime Drug Enforcement Task Force cases. A Tax Division attorney is assigned as a liaison official to each of the 13 Organized Crime Drug Enforcement Task Forces. This provides the local task forces with guidance and expertise in developing and handling the tax investigations and prosecutions in task force cases. Moreover, these liaison attorneys improve communications between drug task force field personnel and other Tax Division attorneys with specialized expertise.

In addition to assisting in individual case development, Tax Division liaison attorneys participate in training new Assistant U.S. Attorneys and task force investigators. They attend conferences in each region and participate in panel discussions on narcotics/tax prosecutions. The liaison attorneys communicate frequently with regional Internal Revenue Service coordinators to keep abreast of new developments which might be of particular importance not only to the Tax Division but to other drug task force components. The Tax Division has also maintained a clearinghouse of legal and investigative materials and information, and coordinates the dissemination of this information to regional task force personnel.

Tax Division attorneys continue to be involved in the investigation and prosecution of major narcotics trafficking rings. In *United States v. Harold Garmany, et al.* (D. Ariz.), a Tax Division attorney participated in the successful prosecution of a series of cases involving 39 defendants and 77 counts concerning a marijuana and cocaine distribution ring which generated over \$20 million in profits between 1979 and 1982. Harold Garmany, the kingpin of the operation, received a life sentence without the possibility of parole for his convictions. Moreover, the jury, by special verdict, required forfeiture to the government of all of Garmany's assets from his drug operations. Two of Garmany's principal lieutenants received 30-year prison terms for their convictions.

Similarly, in *United States v. Christopher Reckmeyer, et al.* (E.D. Va.), a Tax Division attorney successfully directed the tax aspects of a joint narcotics/tax prosecution involving a northern Virginia marijuana and hashish ring which generated over \$100 million in profits since 1974. Christopher and Robert Reckmeyer, the two brothers who

directed the narcotics ring, were sentenced to 17 years in prison without possibility of parole for their convictions for continuing criminal enterprise and for filing false income tax returns. The government also received \$2,500,000 in assets forfeited by the brothers, including Thai gold, a 1,000-ounce silver bar, and numerous sapphires, emeralds, and rubies. Nine other defendants involved in the prosecution were convicted. Bruce W. Thompson, the alleged third kingpin of the narcotics trafficking group, is a fugitive.

Finally, in *United States v. Jerry Kilpatrick, et al.* (E.D. Va.), involving a marijuana importation ring which imported over 138,500 pounds of marijuana into the Tidewater area of Virginia, a Tax Division attorney directed an investigation and prosecution which resulted in a prison term of 18 years and a \$35,000 fine against narcotics kingpin Jerry Kilpatrick. Kilpatrick laundered narcotics proceeds offshore through corporate entities in the Cayman Islands, Netherlands Antilles and Panama. He failed to report \$3,600,000 in taxable income from narcotics sales and attempted to evade \$1,750,000 in income taxes.

During Fiscal Year 1985, the Tax Division authorized 132 Organized Crime Drug Enforcement Task Force grand jury investigations involving 459 individual targets. In addition, the Tax Division authorized prosecution of 269 Organized Crime Drug Enforcement Task Force defendants for criminal tax violations relating to their narcotics activities. As the regional drug task force program has developed, Tax Division participation has been increasingly requested by drug task force prosecutors and investigating agents.

The Tax Division also has a major role in civil litigation involving the assessment and collection of taxes on illicit narcotics income. In many cases, the Internal Revenue Service has appropriately made use of the jeopardy and termination assessment provisions of the Internal Revenue Code to begin immediate collection of unpaid tax liabilities. These jeopardy type assessments and seizures frequently are challenged in lawsuits which Tax Division attorneys defend. The most common of these cases are actions for judicial review of jeopardy assessments. By statute, these cases must be decided within 20 days of filing unless the taxpayer requests an extension, in which case the court's decision is due within 60 days.

Appellate Section

During Fiscal Year 1985, the Appellate Section filed more than 900 briefs and its attorneys argued more than 350 cases in the courts of appeals. Of the 732 appellate decisions entered, the government prevailed, in whole or in part, in 654 suits, for an overall success rate of 89 percent. Even more significant is the Section's success rate of approximately 75 percent in obtaining reversals of adverse trial court rulings. This record in the appellate courts enhances

the government's ability to determine and collect taxes and to promote a fair and equitable tax system.

In connection with tax litigation in the U.S. Supreme Court, attorneys in the Division's Appellate Section prepare petitions for *certiorari* and memoranda in opposition to taxpayers' petitions, as well as briefs and memoranda of law on the merits, under the supervision of the Office of the Solicitor General. During the year, 139 petitions for *certiorari* were pending or received, 136 of which were taxpayer petitions. The Supreme Court acted on 115 petitions for *certiorari* in tax cases; 112 taxpayer petitions were denied, and one taxpayer and two government petitions were granted.

There were four federal tax cases decided by the Supreme Court in the last Term, and the government prevailed in all of them. In a decision that will aid the Internal Revenue Service in its efforts to investigate potentially abusive tax shelters, the Court unanimously held that the Internal Revenue Service need not comply with the more cumbersome procedures for John Doe summonses when it seeks records from a named taxpayer in order to investigate the liability of that taxpayer, even though the Internal Revenue Service may make use of the information obtained in determining the liabilities of other, unnamed parties.⁵ In a decision important to the Internal Revenue Service's tax collection process, the Court rejected the contrary conclusion of the Eighth Circuit and held, by a five-to-four vote, that the Internal Revenue Service has the right to levy on joint bank accounts to collect unpaid income taxes owed by only one of the co-depositors.⁶ In a third case, resolving an issue on which the circuits were divided, the Court unanimously held that a taxpayer's failure to file a timely return is not excused by his reliance on an agent, and is, therefore, subject to a penalty.⁷ Finally, in a six-to-two decision, the Court affirmed the Ninth Circuit's ruling in the government's favor that the merger of a stock savings and loan association into a mutual savings and loan association, whereby the stockholders received passbook savings accounts and time certificates of the mutual savings and loan in exchange for their shares, did not qualify as a tax-free reorganization because the requisite continuity of equity interest was absent.⁸

The Appellate Section has enjoyed significant victories in the courts of appeals in controversies involving the tax protest movement. The courts of appeals have consistently sustained the imposition of the \$500 "frivolous return" penalty, rejecting protester claims that this is an infringement of the right of freedom of speech.⁹ The courts have often added, at our request, the further sanction that the protester must pay double costs and our counsel fees. The appellate courts have also sustained the Tax Court's imposition of the penalty (that may range as high as \$5,000) for institution of frivolous proceedings in that court.¹⁰ Further, injunction orders restraining leaders of the protest movement from

engaging in their disruptive tactics have been upheld by the courts of appeals.¹¹

The Section has also had notable success in the area of abusive tax shelters. The appellate courts have sustained criminal convictions of several promoters of these schemes,¹² and have approved the use of injunctive relief prohibiting promoters from marketing them.¹³ Further, the courts have denied claims for improper deductions to investors in abusive shelter arrangements.¹⁴

The Section has had several important cases this year raising the question whether an organization, otherwise tax-exempt, has realized taxable "unrelated business income." One of these cases, which the government lost in the Federal Circuit, is now pending in the Supreme Court, which has granted our petition for a writ of *certiorari*. The question for review is whether the American College of Physicians is taxable on the substantial advertising income generated by its publication, *Annals of Internal Medicine*. The government prevailed in a Fourth Circuit case, in which the court held that a trade association of stevedoring companies was taxable on the \$1.6 million in fees received from its members to administer fringe benefit funds established by the members for their employees.¹⁵ And government petition for *certiorari* has been authorized in another case from the Federal Circuit, in which the question is whether the American Bar Endowment realizes unrelated business income from its sale of group insurance policies to American Bar Association members.

Criminal Section

The Criminal Section of the Tax Division promotes the uniform enforcement of the nation's criminal tax laws. Its attorneys review and analyze the recommendations for prosecution of tax offenses received from both the Internal Revenue Service and U.S. Attorneys to determine whether prosecution should be authorized. The Section's approval is also required to initiate and expand tax grand jury investigations arising under the internal revenue laws. Criminal Section attorneys conduct and participate directly in some of the more important grand jury investigations. They also handle the trial of these cases and provide assistance to many U.S. Attorneys' offices in specific criminal tax litigation. The Criminal Section's litigation frequently involves the more complex and technical cases where additional resources and expertise are required.

The Criminal Section played a substantial role during the past year in high-visibility prosecutions which, because of media attention, served to improve voluntary compliance. Criminal Section attorneys are actively participating in the prosecutions arising out of the collapse of the Butcher financial empire in Tennessee which, to date, have led to the convictions, among others, of Jacob F. "Jake" Butcher on

charges including income tax and bank fraud. For his bank fraud convictions, Butcher received 20-year prison terms. Concurrent 14-year prison terms were imposed for his income tax offenses, which included both tax conspiracy and substantive income tax violations. Similarly, in *United States v. Franklin G. Perry* (D. Nev.), a Criminal Section attorney participated in the prosecution of a Ponzi-scheme operator who defrauded over 500 investors nationwide of more than \$2,500,000. Following a five-week trial in Las Vegas, in February 1985, Perry was convicted of income tax evasion, obstruction of an Internal Revenue Service investigation, and mail and wire fraud. He received a 25-year prison sentence for his convictions, was fined \$30,000, and was ordered to pay between \$2,500,000 and \$3 million in restitution to defrauded investors. The sentence is one of the most substantial ever imposed in a prosecution involving criminal tax offenses.

During the past year, the Criminal Section completed Volume I of the new Manual for Criminal Tax Trials. The Manual, which replaces a 1973 publication, covers virtually all aspects of criminal tax prosecutions. It will be distributed to all U.S. Attorneys' offices to assist in the prosecution of criminal tax cases.

Under the Division's streamlined case review procedure, all criminal tax cases received from the Internal Revenue Service are screened to determine which can be categorized as noncomplex cases. After limited legal and factual review by senior attorneys, those authorized for prosecution can generally be forwarded to U.S. Attorneys within 10 days after receipt. During Fiscal Year 1985, 410 noncomplex cases involving 438 defendants were transmitted to U.S. Attorneys under this new procedure. Complex cases and cases with sensitive issues continued to receive full review by the Division.

For Fiscal Year 1985, 1,673 new criminal tax cases were received. The Tax Division prepared 1,173 prosecution memoranda, involving 1,786 potential defendants. Prosecution was declined as to 194 potential defendants. Tax Division attorneys handled 66 criminal tax trials, 14 grand jury investigations, and 61 grand jury presentments.

Over 95 percent of the criminal tax cases brought in 1985 resulted in convictions, viz, 1,241 defendants prosecuted and 1,183 defendants convicted. Most convictions were based on pleas of guilty but a total of 199 defendants were convicted following trial, and the conviction rate following trial was 85 percent.

Civil Sections

The Division's Civil Trial Sections not only represent the government in tax fraud suits brought by taxpayers, but also in a wide variety of other litigation under the Internal

Revenue Code and in tax-related litigation in federal and state courts. These actions include:

- Suits brought by the United States to collect unpaid assessments, to foreclose federal tax liens or to determine the priority of such liens, to obtain judgments against delinquent taxpayers, to enforce Internal Revenue Service administrative summonses and to establish tax claims in bankruptcy, receivership, and probate proceedings;
- Proceedings involving mandamus, injunctions and other writs arising in connection with internal revenue matters;
- Suits against Internal Revenue Service employees for damages claimed because of alleged injuries caused by them in the performance of their official duties;
- Suits seeking damages for alleged wrongful disclosure of tax return information by Internal Revenue Service employees;
- Suits against the Secretary of the Treasury, the Commissioner of Internal Revenue, or other officials to test the validity of federal tax regulations or rulings;
- Proceedings under the Freedom of Information and Privacy Acts;
- Suits pursuant to Section 7428 of the Internal Revenue Code challenging the revocation by the Internal Revenue Service of the tax-exempt status of an organization;
- Suits brought by taxpayers pursuant to Section 7429 of the Internal Revenue Code challenging the reasonableness of jeopardy and termination assessments; and
- Suits contesting the imposition by states and localities of taxes on the agencies and instrumentalities of the federal government, including attempts to tax the possessory interest of federal contractors in federal property.

Civil cases constitute a substantial majority of the Division's total caseload. During the year, 10,793 civil tax suits involving more than \$2.97 billion were instituted. (The total amount involved does not include all amounts involved in bankruptcy actions.) Taxpayers commenced 2,081 cases involving approximately \$1.6 billion in tax liabilities and tort claims. The government filed 8,712 suits involving approximately \$1.3 billion. In addition, the Division had supervisory responsibility over more than 12,493 tax lien matters which were handled primarily by the U.S. Attorneys' offices.

Office of Review

The Tax Division's Office of Review appraises settlement offers in light of litigating potential and policy considera-

tions, giving particular attention to settlements that are significant because of the legal issues or amount of money involved. In addition to furnishing advice and assistance to the trial sections on particularly complex cases, the Office takes final action on those settlements within its redelegated authority, and advises the Assistant Attorney General or his delegate on settlements which require final action at a higher level within the Division or Department. The Office is active in resolving disputes between the litigating sections and the Internal Revenue Service, so that the Division's and the client agency's positions are in conformity. During Fiscal Year 1985, the Office of Review completed action on 54 settlement offers, of which 23 were approved and 31 were rejected or returned to the trial sections for further development. The Office of Review also approved 15 administrative settlements, concessions, and dismissals.

The Office of Review also recommended 61 settlements, which were approved under the authority of the Deputy Attorney General or the Assistant Attorney General during Fiscal Year 1985 (including 17 administrative settlements, concessions, and dismissals). In 43 of these settlements, the refunds or concessions exceeded \$200,000, and, pursuant to Section 6405 of the Internal Revenue Code, were transmitted to the Joint Committee on Taxation of the Congress. Eight settlement offers were rejected under the authority of the Assistant Attorney General, and one offer was rejected by the Deputy Attorney General.

CITATIONS

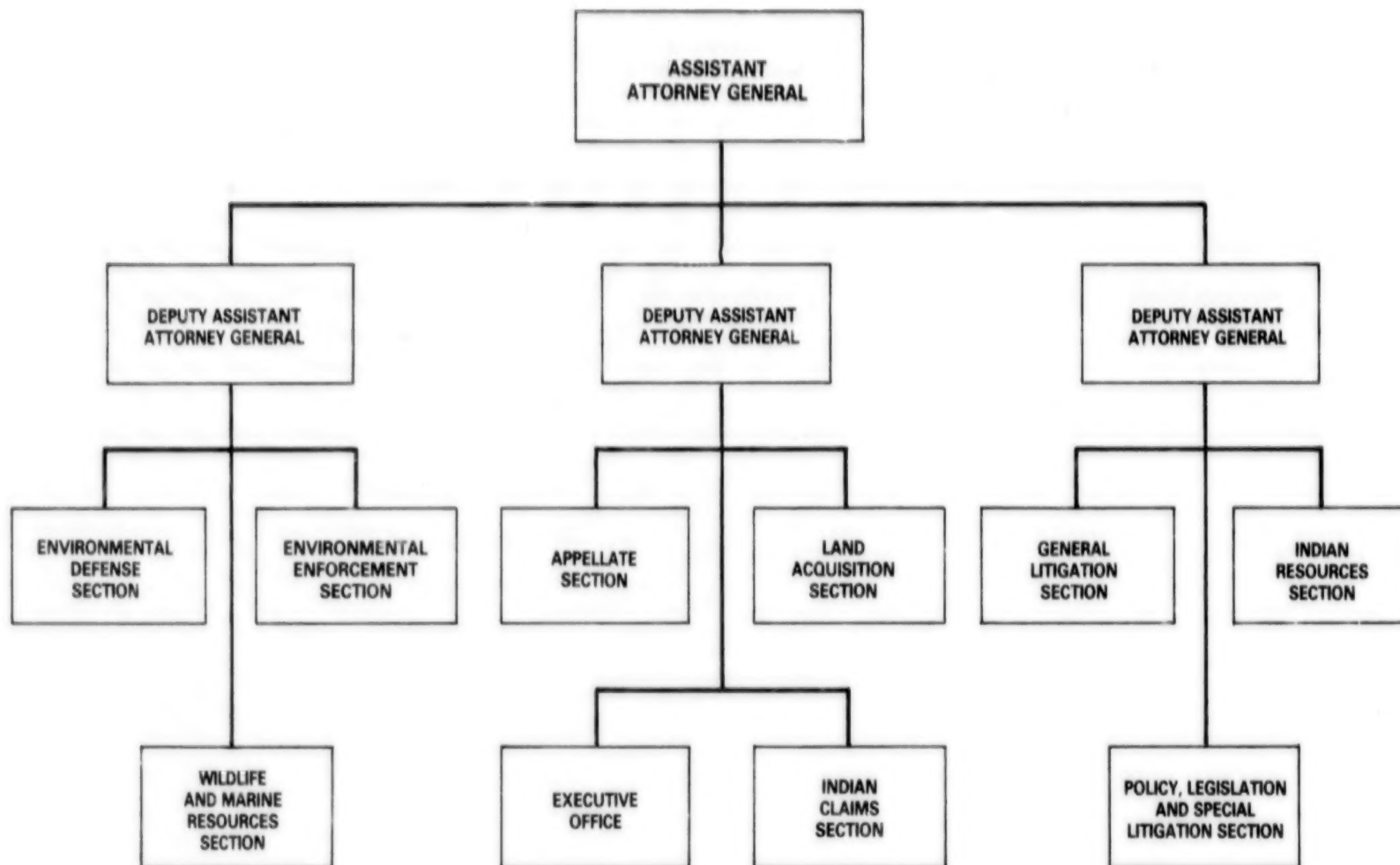
- (1) *United States v. Twist, et al.* (S.D. Fla., Nos. 83-6162-CR and 84-6012-CR).
- (2) *United States v. Ghidoni*, 732 F. 2d 814 (11th Cir. 1984).
- (3) *United States v. Jerome Daly et al.* (N.D. Texas, Criminal Nos. 4-81-123 and 4-82-51), appeal pending Fifth Circuit.
- (4) *United States v. Williams, et al.* (E.D. Va., Criminal No. 83-00103-04-R).
- (5) *Tiffany Fine Arts, Inc. v. United States*, 53 L.W. 4078.
- (6) *United States v. National Bank of Commerce*, 53 L.W. 4856.
- (7) *United States v. Boyle*, 53 L.W. 4059.
- (8) *Paulsen v. Commissioner*, 53 L.W. 4029.
- (9) e.g., *Kahn v. Commissioner* (3d Cir., Jan. 23, 1985); *Lepucki v. Van* (7th Cir., April 7, 1985); *Jenney v. United States* (9th Cir., Mar. 15).
- (10) *rs v. Commissioner* (3d Cir., Aug. 19, 1985); *May v. Commissioner* (8th Cir., Jan. 25, 1985).
- (11) *United States v. David White* (8th Cir., Aug. 8, 1985); *United States v. Shugarman* (4th Cir., Aug. 8, 1985).
- (12) *United States v. Daly* (5th Cir., Mar. 26, 1985); *United States v. Little, et al.* (9th Cir., Oct. 26, 1984).
- (13) *United States v. Buttorff* (5th Cir., June 3, 1985).
- (14) See, e.g., *Anselmo v. Commissioner* (11th Cir., April 16, 1985); *Odend'hal v. Commissioner* (4th Cir., Nov. 20, 1984); *Gordon v. Commissioner* (7th Cir., June 24, 1985).
- (15) *Steamship Trade Assn. of Baltimore v. Commissioner* (4th Cir., Mar. 27, 1985).

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LAND AND NATURAL RESOURCES DIVISION



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Land and Natural Resources Division

F. Henry Habicht II
Assistant Attorney General

The Land and Natural Resources Division, which was created in 1909, represents the United States, its agencies and officials in matters relating to environmental quality, public lands and natural resources, Indian lands and native claims, wildlife and fishery resources, and environmental quality. The client agencies served by the Division include the Departments of Agriculture, Commerce, Defense, Energy, the Interior, and Transportation, as well as the Environmental Protection Agency.

Although the Division's responsibilities are varied, and include enforcement and defensive work, and criminal as well as civil cases, its central goal is to provide first-rate legal representation in the defense and advancement of client agency programs. In addition, the Division seeks to advance the overall policy goals of the Department of Justice by encouraging deferential judicial review of executive agency decisions, finding ways of minimizing unnecessary litigation, and advancing state-federal cooperation on environmental and natural resource issues wherever possible. A major initiative undertaken in this area in the past year was the establishment of the National Environmental Enforcement Council. The purpose of the Council is to facilitate communication and coordination among top federal, state, and local environmental enforcement officials on a growing number of issues, leading to joint initiatives ranging from specific prosecutions to joint training. This effort advances policy initiatives of both this Department and the Environmental Protection Agency.

In all matters handled for its client agencies, the Division places emphasis on first quality litigation for the United States and on the development and maintenance of effective client relationships. To accomplish this, the Division attracts and retains high caliber staff attorneys who work closely with Division management personnel and their counterparts at the client agencies. Matters in litigation are reviewed regularly; policies and programs are discussed not only in the context of specific litigation, but also as part of a more general client counseling effort, and problem areas are identified and resolved. As a result of such efforts, pre-litigation contact with client agencies has resulted in major successes in sustaining client agency initiatives, such as offshore oil and gas leasing programs.

During the past year, the Division has continued to make progress in enforcement actions particularly in the areas of hazardous waste cleanup, criminal enforcement of en-

vironmental laws, and prosecution to protect endangered wildlife. Efforts have been made in the past year to coordinate the simultaneous filing of enforcement actions in order to increase the deterrent effect throughout the regulated community. Close contacts with other agencies continue to play a critical role in these areas.

In defensive matters, the Division has assumed a more aggressive litigation posture in successfully protecting important federal initiatives from legal challenge and defending demands for attorneys' fees—where the government has prevailed on all issues in dispute.

At the end of Fiscal Year 1985, the Division had 404 employees: 235 attorneys and 169 support staff.

Appellate Section

The Appellate Section is responsible for handling appeals from district court decisions and selected petitions for review. The Section prepared briefs and other substantive papers and presented oral argument in 1,253 cases in federal and state appellate courts. Documents filed in the Supreme Court in Division cases—briefs on the merits, petitions for *certiorari*, briefs in opposition, jurisdictional statements, and miscellaneous memoranda—were also drafted, and research paper were produced on several problem issues. In addition, members of the Section served on Division trial-appellate litigation teams in designated cases.

Significant environmental decisions include an action challenging the constitutionality of the pesticide registration provisions of Federal Insecticide, Fungicide and Rodenticide Act. *Thomas v. Union Carbide Agricultural Products Co.*¹ The Supreme Court ruled that the Act did not violate Article III in remitting certain compensation claims to arbitrators for resolution under the public rights doctrine.

The Section also prevailed in the first appellate court test of a major issue involving the Comprehensive Environmental Response, Compensation and Liability Act (Superfund). *J.V. Peters & Co., Inc. v. Ruckelshaus*.² The court of appeals ruled that there is no right to pre-cleanup review of the Environmental Protection Agency's actions under the Superfund statute. The court found that review of the Environmental Protection Agency's plans prior to cleanup would "debilitate the central function of the Act." The proper time for review, the court found, was in the cost-recovery proceeding following cleanup.

There have also been a number of successes in Nuclear Regulatory Commission (NRC) cases, where the courts of appeals have upheld the Commission's actions concerning several controversial plants. In the *Three-Mile Island Alert, Inc., et al. v. NRC*,³ the Third Circuit affirmed the NRC's restart order allowing the undamaged reactor at Three-Mile Island to resume operations. In *Cuomo v. NRC*,⁴ the District of Columbia Circuit refused to stay an NRC decision authorizing low-power testing at the Shoreham Nuclear Power Station. A panel of the District of Columbia Circuit also sustained NRC's orders granting low-power and full-power licenses for the Diablo Canyon Nuclear Power Plant. *Duekmajian v. NRC*.⁵

The Section has had several notable accomplishments in the implementation of the Endangered Species Act. In *Riverside Irrigation District v. Andrews*,⁶ the Tenth Circuit ruled that the Corps of Engineers acted within its statutory authority and properly fulfilled its obligations under the Endangered Species Act in requiring an individual Section 404 permit for a dam whose operation might jeopardize the critical habitat of the whooping crane. The developers claimed that no individual permit was necessary because the jeopardy would only indirectly result from exercise of state water rights associated with the dam project. The court agreed that the Corps was obligated to require an individualized study of the dam's effects before deciding on the project.

In another case, the Section persuaded the Ninth Circuit to uphold the validity of a permit, issued under an amendment of the Endangered Species Act, to allow an "incidental take" of endangered species in connection with a development project. *Friends of Endangered Species, Inc., et al. v. Jantzen*.⁷ The permit provision, enacted in 1982, allows individuals to avoid the strictures against any taking of an endangered species incidental to a lawful activity if the Secretary approves a conservation plan for the species affected by the activity. In this first appellate test of the amendment, the Ninth Circuit upheld a permit for a housing development project that would provide for habitat maintenance for the endangered mission blue butterfly.

Finally, the Section has persuaded the Supreme Court to hear a case involving Indians' rights to hunt endangered and threatened wildlife. *United States v. Dion*.⁸ The Eighth Circuit, *en banc*, ruled that neither the Endangered Species Act nor the Bald and Golden Eagle Act applied to Indians taking protected species for noncommercial purposes pursuant to treaty rights. As much of the eagles' habitat in the lower 48 states occurs in or near Indian reservations, the lower court's ruling will have a serious impact on the protections afforded our national symbol unless reversed.

In another Indian case, *United States v. Dann*,⁹ the Supreme Court ruled that the final judgment in an Indian Claims Commission proceeding brought by the Western

Shoshone Indians barred any further assertion of Western Shoshone aboriginal title. The court of appeals had ruled that the Claims Commission judgment was not final; this ruling cast a cloud over approximately 22 million acres in Nevada. *State of Alaska v. United States*¹⁰ also involved a claim to large acreage of federal land. There the court of appeals rejected Alaska's claim that float plane use could render a lake navigable within the meaning of the Equal Footing Doctrine and the Submerged Lands Act. If the state had prevailed, it potentially could have claimed title to the beds of 3 million lakes of 40 acres or more in Alaska.

The Section also prevailed in a novel, international takings case. *Fred E. Langenegger, et al. v. United States*.¹¹ There, the Federal Circuit ruled that the United States involvement in the land reform efforts in El Salvador was not so substantial and direct as to require just compensation under the Fifth Amendment to American citizens whose interests in property there had been expropriated by that government.

Finally, the Section has participated in the definition of the proper role of masters in the federal courts. The Eighth Circuit issued a writ of mandamus to restrict the powers of a Special Master appointed by the district court to preside at the trial of a hazardous waste case. *In re: Armco, Inc.*¹² The appellate court agreed with the Division's position that the master could carry out a variety of pre- and post-trial functions but that the district court erred in granting the master authority to preside at the trial on the merits.

Environmental Defense Section

The Environmental Defense Section supervises and conducts the defense of civil cases involving the abatement of pollution and protection of the environment. The Section's caseload is comprised of litigation in which regulations, permits, or other actions or determinations by the Environmental Protection Agency and other agencies have been challenged by industry or environmental organizations. The Section has responsibility for defensive actions under the Clean Air Act; the Clean Water Act; the Federal Insecticide, Fungicide and Rodenticide Act; the Toxic Substances Control Act; the Safe Drinking Water Act; the Resource Conservation and Recovery Act; and the Comprehensive Environmental Response, Compensation and Liability Act; and for wetland enforcement cases arising under the Rivers and Harbors Act and the Clean Water Act.

Over the past year the Environmental Defense Section has successfully litigated challenges to important regulatory programs of the Environmental Protection Agency. In *Chemical Manufacturers Association v. NRDC*,¹³ the Supreme Court upheld the regulatory system under the Clean Water Act for providing companies with variances where their facilities were fundamentally different from those used to establish

discharge limits. The decision firmly reiterated the principle of administrative law that great deference is due to an agency's interpretation of the statutes it administers. Applying this principle to the Clean Air Act, the Court of Appeals for the Ninth Circuit approved the designation of areas not in attainment with national ambient air quality standards to include not only counties with monitored violations, but also the areas where the precursor pollutants originate.¹⁴ This decision will enable flexible administration of the Clean Air Act to achieve national goals. Similar results upholding agency application of statutes were achieved under the Clean Water Act for effluent limitation regulations¹⁵ and the Uranium Mill Tailings Radiation and Control Act for standards governing radiation emissions.¹⁶

The Section has defended numerous challenges to the government's environmental enforcement programs. The Court of Appeals for the District of Columbia Circuit rejected all petitioners' claims against the National Priorities List of hazardous waste sites eligible for federal cleanup.¹⁷ The Section obtained several significant trial court decisions affirming the principle that potentially responsible parties under the hazardous waste statutes cannot invoke the federal judicial power to interfere with government cleanups under Superfund.¹⁸ Similar results were obtained for the pesticide control program, thwarting attempts to interpose the courts in pre-enforcement review of governmental policy.¹⁹ The Section's representation of federal facilities, particularly Department of Defense installations, in environmental compliance suits has increased. A successful agreement for sharing cleanup costs between the U.S. Army and its private lessee at the Twin Cities Army Ammunition Depot serves as a model for efficient management of these federal facility waste problems.²⁰ Such agreements can save both litigation and administration costs.

In the area of wetlands enforcement, the Court of Appeals for the Eleventh Circuit confirmed a \$100,000 civil penalty plus 23 acres of wetlands restoration.²¹ Another egregious, repeat violator was found liable for a \$250,000 penalty if the required restoration is not satisfactorily completed plus \$75,000 additional permanent fines.²² In addition, the major challenge to the regulations governing issuance of permits for dredging or filling our nation's waterways was successfully concluded.²³

Environmental Enforcement Section

The Environmental Enforcement Section handles district court enforcement litigation under a wide range of statutes designed to protect the public health and the environment from pollution of our air, surface waters, drinking waters, and groundwaters. Most litigation arises out of statutes designed to address cleanup of hazardous waste sites (the

Comprehensive Environmental Response, Compensation and Liability Act of 1980), the ongoing disposal of hazardous wastes (the Resource Conservation and Recovery Act), the pollution of our waters (the Clean Water Act), the integrity of our drinking water (the Safe Drinking Water Act), and the quality of our air (the Clean Air Act). The Section initiates enforcement litigation at the request of a large number of federal agencies, but the leading client is the Environmental Protection Agency which accounted for about 95 percent of the referrals in Fiscal Year 1985.

The Section is a litigating unit whose staff acts as lead counsel for the government in about 75 percent of its environmental enforcement cases. It has pending litigation in over 65 of the federal judicial districts. Major priorities of the Section include the growing area of civil enforcement of hazardous waste laws, the criminal enforcement environmental statutes, and the continued enforcement of the more traditional areas of air and water pollution. The workload of the Section has increased dramatically in recent years; consequently the size of the Section underwent substantial growth during Fiscal Year 1985.

Hazardous Waste Enforcement

The Section devotes over half of its resources to the enforcement of hazardous waste laws, chiefly through civil actions pursuant to Superfund. The \$1.6 billion Superfund was established in 1980 to address the problem of abandoned hazardous waste dump sites. The Section handles cases to recover fund expenditures from responsible parties, to require responsible parties to undertake cleanup in the first instance, and to recover for damage to natural resources managed by the United States. This year Superfund is to be reauthorized at over 5 times its previous budget which will inevitably lead to more Fund expenditures and more litigation for this Section.

The hazardous waste docket has greatly increased over the past five years, with annual filings rising steadily from 10 in 1981 to more than 60 in 1985. The future growth of the docket is inevitable. The present National Priorities List contains over 800 sites, and the Environmental Protection Agency predicts it will reach 2,000. From this continual increase in cleanup activity, an unavoidable docket of enforcement actions will follow. Almost all hazardous waste lawsuits involve multiple parties; many contain over 10 parties, some have in excess of 100. The amount in controversy in these cases varies considerably—ranging from a few hundred thousand dollars to hundreds of millions of dollars. This portion of the Section's docket includes many widely publicized sites including the Love Canal and associated sites in New York, the Stringfellow Acid Pits in California, the Missouri dioxin sites, and the Rocky Mountain Arsenal in Denver, Colorado.

At the end of Fiscal Year 1985, the Section had 220 hazardous waste civil actions filed and pending in district courts. The Section settles a substantial percentage of such cases, while at the same time carefully guarding the public health, environmental, and governmental interests at stake. In the past three years 65 hazardous waste cases were fully resolved by consent agreements involving over \$400 million in injunctive or cost recovery relief.

The Section was also successful in litigating hazardous waste cases this year. Motions practice was utilized widely in an effort to efficiently and expeditiously prosecute actions. The Section had great success in obtaining many significant district court rulings favorably resolving such unsettled legal issues under Superfund as the standard and scope of liability in hazardous waste cases. Increasingly, hazardous waste and other cases which cannot be settled are being brought to trial promptly.

Criminal Enforcement

The Environmental Crimes Unit was created within the Section in November 1982 to focus the government's prosecutorial resources on the specialized field of environmental crimes and to establish an adequate deterrent against intentional violations of the environmental statutes. This initiative, the first undertaking of its kind, developed at the same time the Environmental Protection Agency created a Criminal Enforcement Division and hired criminal enforcement investigators to prepare cases for referral to the Department.

In Fiscal Year 1985, the Crimes Unit obtained 40 indictments and 37 convictions, building on an equally impressive record in 1984. Such cases are generally unambiguous, deliberate violations, such as "midnight dumping" of hazardous wastes. Significantly, the targets of these prosecutions are usually the highest corporate officials directly responsible for the wrongdoings. Thus, 85 out of 123 indictments over the last three years have been against individuals. Further, several cases have focused on fraudulent activities in the handling of hazardous wastes by government contractors, particularly those hired by the Department of Defense.

Other Civil Enforcement

In addition to the rapidly expanding areas of hazardous waste civil and criminal enforcement, the Section has continued to maintain an active docket of air and water enforcement actions. This year, the Section filed 90 Clean Air Act cases, and 69 Clean Water Act/Safe Drinking Water Act cases. Indications from the Environmental Protection Agency are that this traditional docket will continue to experience gradual growth.

Major new initiatives under the Clean Air Act include the enforcement of asbestos demolition and volatile organic compound regulations. Older programs, including enforce-

ment of hazardous pollutant regulations involving vinyl chloride, particulate and sulfur dioxide regulations against the steel industry and state- or municipal-owned facilities, and new source performance standards, continue as a major component of the Section's docket. Under the Clean Water Act the Section increased its enforcement efforts against municipalities, by filing several initiatives to bring municipalities in line with the pretreatment requirements of the Clean Water Act. The Section has also maintained a substantial docket of industrial-discharger actions.

Staffing

To meet a burgeoning caseload, the Section's staff increased from 119 (including 60 attorneys) to 146 (including 76 attorneys) during the year. This growth helped the Section to meet an expanding and complex caseload, while maintaining a substantially reduced percentage of unfiled referrals. Unfiled referrals have dropped from more than 50 percent of the Section's docket in 1982 to less than 25 percent in 1985. The Section anticipates additional staff increases to assure aggressive handling of its existing load.

General Litigation Section

While the jurisdiction of the General Litigation Section is the broadest and most varied in the Division, its primary task is to defend federal agency actions in a number of substantive areas including public lands, waters, minerals, and other natural resources; programs and projects such as highways, dams, and the transportation and treatment of nuclear waste, deployment of nuclear missiles, and genetic research. This unit also defends challenges to agency actions under the National Environmental Policy Act;²⁴ decisions regarding Indians and Indian tribes; agency action under the Alaska Native Claims Settlement Act and the Alaska National Interest Lands Conservation Act; water rights litigation affecting federal interests, including defense of the United States interest in general stream adjudications; and the federal surface mining program. It also handles litigation relating to mineral resources of the adjacent seas and seabed, including the determination of the location of the coastline and other maritime boundaries of the United States. Protection of the United States monetary interest against claims based on inverse condemnation in the U.S. Claims Court is also a part of the Section's responsibilities.

In all, the Section has litigation responsibility for federal programs under more than 70 statutes. Of particular importance are the Outer Continental Shelf cases involving challenges to the Administration's federal offshore oil and gas leasing program. Special teams established within the Section worked very closely with the Department of the Interior on all phases of the leasing program to ensure the success of the program. Hard fought battles continue to occur

over lawsuits brought by the States of Texas and Louisiana challenging the royalty apportionment between the states and the federal government under Section 8(g) of the Outer Continental Shelf Land Act. Billions of dollars are at stake in these cases and in others where, for example, the Section has initiated litigation to collect royalties due the United States. A substantial victory was in *Marathon Oil Co. v. Department of the Interior*,²⁵ where the U.S. District Court for the District of Alaska upheld the Department of the Interior's order requiring Marathon Oil to increase the royalties paid to the United States under federal oil and gas leases in Alaska.

In 1985, the Section also handled approximately 360 suits instituted under the National Environmental Policy Act, a statute which requires the preparation of environmental impact statements for major federal actions likely to have a significant impact on the environment. Requiring fast, effective action, these suits involve challenges to federal agency action for failure to comply with the National Environmental Policy Act, and generally come to the Section on motions for a preliminary injunction. Controversial federal projects and programs typically are challenged in these cases. For example, the State of Colorado and several private organizations have sued to stop the deployment of the MX/Peacekeeper missile system. Thus far we have been successful in preventing delay of the project. Another active area involves suits challenging the National Institute of Health's and the Department of Agriculture's research in the emerging field of genetic engineering. And in *Merrell v. Lee Thomas*,²⁶ the plaintiff brought an action for injunctive relief to set aside the right-of-way use registrations of seven herbicides issued by the Environmental Protection Agency under the Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S. Code 136, *et seq.* On dispositive motions the court ruled in favor of the government and defendant intervenors that the Federal Insecticide, Fungicide and Rodenticide Act registration process is not subject to the procedural requirement of the National Environmental Policy Act.

Numerous important cases have arisen under the Surface Mining Control and Reclamation Act.²⁷ In 1977, Congress enacted this legislation to regulate the health and environmental effects of surface mining in the United States. The statute creates a cooperative federal-state program and is implemented in two stages. One of the goals of the Act is the reclamation of abandoned mine sites. In *United States v. Rapoca Energy Company*,²⁸ the district court awarded the United States a judgment of \$322,368.09 in unpaid reclamation fees and accrued interest. If upheld on appeal, this case is expected to provide significant encouragement to other owners of abandoned mines who have resisted paying abandoned mine reclamation fees.

Another successful defense involved the Bureau of Land Management's cost-reimbursement program under the Mineral Leasing Act. A Federal Circuit upheld a Claims

Court decision denying Sohio a \$2.5 million claim for a refund of monies it paid to the Bureau of Land Management to process its application for a right-of-way across federal land. Sohio had argued that the fee was an unconstitutional tax, and that the regulations were impermissibly vague. The court rejected all of Sohio's arguments. As a result of this decision, the Alyeska Pipeline Co. is abandoning a similar claim for over \$30 million.

Water rights cases also comprise a major portion of the Section's workload. Colorado and other states are now beginning the lengthy process of seeking to quantify water rights to major water sources in their state. Because the United States owns substantial land in these water-short western states, it must quantify its rights through participation in these cases.

Approximately 150 cases are pending in which private landowners allege that the United States effectively has condemned their properties to federal use. Enormous sums of money are at stake in many of these cases, which include claims of flooding caused by construction of dams, claims that the United States, particularly the military agencies, have taken an avigation easement over private property by overflight, and claims that the United States has condemned leasehold interests by remaining as a carry-over tenant.

Over 500 cases have been filed under Section 204 of the Omnibus Territories Act of 1977²⁹ by residents of Guam who believe the United States did not treat them fairly when their land was condemned during and after World War II. Thus far, the court has approved a class action settlement under which the United States has agreed to contribute \$39.5 million in payment of all outstanding claims against the United States. We are now in the process of determining the amount of money to which each individual landowner is entitled.

Complex litigation has also arisen under the Alaska Native Claims Settlement Act, passed in 1971,³⁰ which established a fund of money and land to be distributed to Alaska natives in exchange for the extinguishment of all aboriginal claims which might have been brought against the United States. Other litigation has arisen following the 1980 passage of the Alaska National Interest Lands Conservation Act,³¹ which established over 100 million acres of parks and, in the same statute, provided for development opportunities in Alaska. Defense of suits brought against federal officials administering programs for Indians is also an important portion of the Section's docket. Such suits include election certifications, school closing cases, heirship determinations, claims of entitlement to funds, health services by the Indian Health Service, suits regarding use and distribution of assets held for the Indians, and suits involving tribal governmental determinations.

Indian Claims

The Indian Claims Section defends the United States against money damages claims on both legal and equitable bases by Indian tribes under the Indian Claims Commission Act of 1946. With the termination of the Indian Claims Commission on September 30, 1978, those "historical" claims were transferred and are now litigated before the U.S. Claims Court. The Section also defends money damages suits presenting contemporary claims by Indian tribes. These suits present questions addressing the full range of federal management of Indian fiscal and natural resources and are litigated in the Claims Court under the jurisdiction of 28 U.S. Code 1505.

The Section has emphasized disposition of the historical or ancient claims still pending under the Indian Claims Commission Act and, as a result, the majority of cases on its docket are now the contemporary suits. The total claimed in all cases closed in Fiscal Year 1985 was \$168,988,480. Eight of those cases were dismissed and the remaining suits were settled by the award of compromise judgments in the amount of \$17,228,195. Overall, the resolution of \$168,988,480 in claims in Fiscal Year 1985 represents a judgment rate of approximately 10 percent. In still pending litigation, the Section received interlocutory rulings in Fiscal Year 1985 reducing exposure by an additional \$41,219,000.

It continues to appear that the landmark decision in *United States v. Mitchell*, 463 U.S. 206 (1983), is contributing to an increase in the filing of contemporary breach of trust suits against the United States for money damages. Specifically, in Fiscal Year 1985, 12 new cases were opened. The six-year average opening rate prior to 1982 was six cases per year.

Indian Resources

Throughout its history, the United States has had a special relationship with the Indian tribes within its borders. This relationship has been given concrete form in many treaties and federal statutes which call upon the United States to protect the rights of Indian tribes and, sometimes, individuals. It has also been repeatedly sanctioned and enforced by decisions of the Supreme Court and lesser courts. As a result, the United States frequently initiates or defends suits on behalf of Indians. In other situations, the United States participates as *amicus curiae* in an effort to explain and develop the law relating to Indian rights.

As in past years, the Division devoted a great deal of time and effort to lawsuits initiated by state governments seeking to quantify federally-owned water rights, including water rights held for Indian tribes. Because of recent successes by the Division in such lawsuits, state governments are showing a preference to resolve these issues through negotiation

rather than litigation. In May of 1985, the United States, the State of Montana, and the Assiniboine and Sioux Tribes of Fort Peck successfully negotiated a water rights compact which recognized the Tribes' right to divert 1,050,000 acre feet of water from the Missouri River per year. Negotiations are ongoing with the States of Colorado, Nevada, Utah, Idaho, and Wyoming. Litigation is still pending in all these states and in Washington, New Mexico, California, and Arizona. It appears, however, that the states realize that negotiations can save considerable amounts of state money and time that otherwise would be consumed in litigation; the federal government obtains a similar saving whenever trial is avoided.

President Reagan appointed former Secretary of the Interior, Judge Clark, as his personal representative to attempt a negotiated settlement between the Navajo and Hopi Tribes over lands claimed by both Tribes. Unfortunately, Judge Clark's efforts were unsuccessful and the complex litigation surrounding this dispute is going forward. Unless Congress acts soon, the Administration faces the prospects of relocating several hundred Navajo families by July 7, 1986. The Navajo-Hopi Relocation Commission created by the 1974 Settlement Act has not completed its task for a variety of reasons, most of which were beyond its control. We expect this controversy to continue to demand the Division's attention in the coming year, as it has in the past.

The Division's attention to the issue of tribally sponsored gambling operations, which are becoming more popular with the tribes as a source of income to fund much needed tribal programs, increased during the year because of a growth in litigation and because of various legislative and administrative initiatives that are currently being considered to regulate the gaming operations.

Land Acquisition Section

The Land Acquisition Section is responsible for the acquisition of real property for public use. When a voluntary purchase by one of the acquiring agencies is not possible, the Section initiates and prosecutes condemnation proceedings in the U.S. district courts. These proceedings are instituted pursuant to the sovereign power of eminent domain, as codified in the General Condemnation Act, the Declaration of Taking Act, and other statutes authorizing the acquisition of land by condemnation. The goal in these cases is to achieve compensation which is both fair to the landowners and fiscally responsible.

The Section at the end of Fiscal Year 1985 has pending 6,598 tracts. The amount of money at issue in the pending tracts is over \$1 billion—the difference between the landowner's known claims of \$1.714 billion and the government's appraisals of \$678.5 million. The number of tracts pending at the end of Fiscal Year 1985 indicates that

further progress has been made in meeting the goals of the Caseload Reduction Plan. The tract count is down from a high of 21,722 tracts on July 31, 1977.

The largest case now pending is the National Park Service acquisition from three large timber companies of nearly 49,000 acres of additional redwood timberland in northern California for expansion of the Redwood National Park. The three timber companies have appraisals that range from \$761 to \$820 million, exclusive of interest. The appraisals of the United States range from \$195 to \$391 million, exclusive of interest. Trial began on October 15, 1985, before a three-member commission and was expected to last approximately six months.

During the past year, the Section has successfully litigated several cases of major significance. *United States v. 234.6 Acres*³² involved the taking of a mineral leasehold in connection with the Choke Canyon Reservoir and Dam located near Corpus Christi, Texas. The government's testimony at trial was \$180,832 and the landowner, who was an oil operator, presented testimony of \$1.8 million. The central issue in the case was whether the hydrocarbon reservoir beneath the surface would produce oil or gas or both. After a trial involving very technical expert testimony, the award was on the government's testimony. In *United States v. 10,031 Acres*,³³ there was a retrial of a case in which the landowner had received an award of \$2 million. At the second trial, after the government's successful motion for a new trial, the landowner presented testimony of \$2.2 million and the government's testimony was \$1.4 million. A jury award of \$1.7 million saved the United States \$300,000 in comparison to the previous award.

*United States v. 298.25 Acres*³⁴ involved the acquisition of the minerals under a 298.25-acre tract of land for the East Lynn Lake Project. At the trial the owners of the minerals presented testimony that the minerals, in this case coal, were worth \$2,641,520. The United States presented testimony that the coal had a fair market value of \$36,572. The jury awarded \$63,000. A similar high claim for gold was made in *United States v. 24.48 Acres*.³⁵ The government's testimony at trial was \$179,725 and the landowners high testimony was \$115 million. After a 6-day trial, the three-member commission awarded \$180,000.

Policy, Legislation and Special Litigation Section

The Policy, Legislation and Special Litigation Section handles the Division's legislative responsibilities and provides legal counsel and policymaking support to the Assistant Attorney General. Among many other duties, it is responsible for providing analysis and comment on

legislative proposals, preparing testimony for Division witnesses, developing accurate and timely responses to all congressional referrals and inquiries and processing requests under the Privacy Act and the Freedom of Information Act. During 1985, the Section was particularly active in both Superfund and Clean Water Act reauthorization and contributed substantially to the debate on legislation dividing escrow monies between federal and state governments from the Outer Continental Shelf.

Other responsibilities include intergovernmental affairs activities, media and press relations, providing legal counsel relating to federal legislative jurisdiction and ethical questions facing the Division, and representing the United States in selected litigation at all levels of the judiciary. The Section provides litigation support to other sections and often drafts the Division's Supreme Court *amicus curiae* briefs for the Solicitor General.

Litigation issues addressed by Section attorneys during the past year in the Supreme Court include the standards by which a regulatory taking occurs and the effects of bankruptcy on a party's responsibility to clean up hazardous wastes. Other special issues during the last year included appeals in seven different circuits on issues as diverse as jurisdiction in a criminal case involving an Indian on a reservation to interpretation of several provisions in hazardous waste statutes. Section attorneys also assisted other sections in several major hazardous waste cases and handled other litigation in both federal district and state courts.

In addition to litigation, the Section provides the Assistant Attorney General with legal opinions and memoranda on a wide variety of issues ranging from the role of administrative penalties in environmental enforcement to federal facilities' handling of their hazardous waste problems. The analyses in some instances have been provided by the Assistant Attorney General to the Attorney General and to other federal officials and agencies.

Wildlife and Marine Resources Section

The Wildlife and Marine Resources Section is responsible for civil and criminal litigation arising under statutes which call for federal management of living resources, or which regulate private conduct regarding them. The Section handles prosecution of illegal taking, trade or importation of endangered and other regulated species. The Section is also charged with defending cases where client agency action affecting wildlife is challenged. In addition to the Endangered Species Act,³⁶ the Section's work focuses on the Magnuson Fishery Conservation and Management Act,³⁷ the Marine Mammal Protection Act,³⁸ and the Lacey Act Amendments of 1981 (Lacey Act).³⁹ Litigation under some 20 other environmental laws is also handled by the Section.

Fiscal Year 1985 brought complex challenges in highly controversial wildlife management matters. The discovery that irrigation run-off waters from a Department of the Interior reclamation project in California's San Joaquin Valley contain naturally occurring toxic elements resulted in several lawsuits charging that operation of the project violated the Migratory Bird Treaty Act and other wildlife conservation statutes. See, e.g., *Claus v. United States*.⁴⁰ Agricultural drainage flowed into a reservoir on the Kesterson National Wildlife Refuge and was responsible for significant migratory bird mortality and deformity there. The Section helped to negotiate a compromise in which farmers who depend upon the irrigation water will find an alternative method of disposal.

The Section won an extremely important victory in *Friends of Endangered Species v. Jantzen*,⁴¹ the first test of a 1982 amendment to the Endangered Species Act designed to avoid repetition of confrontations like the famous one over Tellico Dam and the snail darter. We obtained Ninth Circuit affirmation of a Fish and Wildlife Service permit for development of a multibillion dollar project on San Bruno Mountain in the San Francisco Bay area, conditional upon a plan to save the residential population of endangered mission blue butterflies.

The Section has also brought several actions this past year on behalf of Interior to regulate entry by oil and gas developers onto wildlife refuges pursuant to the National Wildlife Refuge Administration Act. *United States v. Terronne Petroleum Corp., et al.*⁴² *United States v. International Minerals Corp., et al.*⁴³ In each instance, the developers declined to obtain a permit for entry onto refuge lands or to abide by conditions established to protect wildlife and preserve habitat. Our suits seek to balance the developers' preexisting rights to exploit subsurface minerals against the conservation purposes for which the refuges were created.

The Section defended an historic executive agreement between the United States and Japan under which the latter commits to abandon its commercial whaling industry by 1988. A divided District of Columbia Circuit panel invalidated this diplomatic achievement on the erroneous theory that the executive is without discretion to compromise—however constructively—when the International Whaling Commission has set an earlier but unenforceable moratorium. The Section is pursuing rehearing *en banc* to secure the whale conservation advance and recognition of the proper deference to executive conduct of foreign affairs. *American Cetacean Society, et al. v. Baldrige, et al.*⁴⁴

The Section won the largest penalty ever for violations of the Magnuson Fishery Conservation and Management Act by foreign fishing fleets. Japanese fishing companies engaged in a widespread scheme to underreport their harvest of groundfish in United States waters off the Alaska coast.

After litigation in three courts,⁴⁵ the Japanese companies agreed to pay a \$2 million penalty and accept permit sanctions totaling 20 vessel-years. In cases emphasizing sound principles of federalism, the Section successfully concluded extensive litigation about the right of states to regulate offshore fisheries in the absence of a federally-developed fishery management plan.⁴⁶ Opponents had argued that state authority to regulate in this zone is preempted by the Magnuson Act even when no federal regime is in effect. In *Lovgren v. Byrne*,⁴⁷ we established that the Secretary of Commerce's inspection authority under Magnuson Act is not restricted to vessels but extends to onshore dock areas where regulated fish are off-loaded. The court rejected arguments that such a search violates the Fourth Amendment.

The Section won a host of major criminal cases in Fiscal Year 1985. It gained conviction of more than 50 defendants charged in "Operation Falcon," an undercover investigation into the illegal taking and trading of falcons and other raptors on both a domestic and international scale. The cases reveal a multimillion dollar traffic in raptors between North America, Europe, and the Middle East; more prosecutions of international traffickers are still in progress. In two cases arising out of another undercover investigation, "Operation Trophykill," the Section obtained the strongest sentences ever imposed for violation of wildlife laws.⁴⁸ These prosecutions focused on illegal hunting of big game in national parks, illegal importation and smuggling of the skins of endangered species, and the killing and sale of wildlife for use of their parts for medicinal and aphrodisiac purposes. To date, over 45 individuals have been convicted or pled guilty. In a third series of prosecutions, the Section has attacked the widespread sale and use of highly toxic pesticides (azodrin and aldrin) in Louisiana and Texas, which were illegally being applied to rice crops to kill migratory birds. These cases have resulted in over 40 convictions of distributors and farmers for violations of the Migratory Bird Treaty Act and the Federal Insecticide, Fungicide and Rodenticide Act, with a similar number of cases in progress.

Executive Office

During 1985, the Executive Office not only continued to provide the normal range of administrative services, but focused its attention on three critical areas: management and productivity reviews, automated litigation support and office automation.

Management and productivity reviews were conducted of almost 50 percent of the Division. These detailed assessments were discussed with the individual Section chiefs and at several management conferences chaired by the Assistant Attorney General and attended by all Section managers. A number of the recommendations made in the studies have

been adopted, covering such areas as management structure, attorney supervision and office procedures.

Another area of increased attention was automated litigation support. For example, in one case, over 5 million pages were screened and two data bases with more than 230,000 documents were created and are in daily use. A document center has been established and work is ongoing to create a full-text deposition data base. Similar support is being provided to another case involving approximately 250,000 documents. In addition, assistance is being provided to less complex cases with the use of portable personal computers; personal computers were used to create two 10,000-record data bases and 10 smaller data bases. Moreover, personal computers have proven to be particularly helpful during trials for tracking exhibits and examining witnesses.

As an integral part of its efforts to increase productivity and improve the services offered to the litigating sections, the Executive Office has conducted a number of studies and pilot projects in two major areas of office automation; word processing and case and time management systems. In the area of word processing, after seven vendors demonstrated their equipment, one vendor's machines were selected for a four-month test in two litigating sections. In the administrative system area, a prototype case management system was developed and now is being tested in the Division's largest section, and a detailed study of the ramifications of substantially expanding the Division attorney time reporting system currently is underway.

FISCAL YEAR 1985

Workload Statistics

Land Acquisition:	
Tracts Start.....	8,720
New Tracts Opened.....	895
Tracts Closed.....	3,021
Tracts End.....	6,594
Environmental Defense:	
Matters Start.....	1,427
New Matters Opened.....	301
Matters Closed.....	380
Matters End.....	1,348
Environmental Enforcement:	
Matters Start.....	498
New Matters Opened.....	334
Matters Closed.....	187
Matters End.....	645
Indian Resources:	
Matters Start.....	606
New Matters Opened.....	29
Matters Closed.....	74
Matters End.....	561

Indian Claims:	
Matters Start.....	75
New Matters Opened.....	13
Matters Closed.....	20
Matters End.....	68
General Litigation:	
Matters Start.....	3,299
New Matters Opened.....	808
Matters Closed.....	638
Matters End.....	3,469
Appellate:	
Matters Start.....	841
New Matters Opened.....	423
Matters Closed.....	297
Matters End.....	967
Policy, Legislation and Special Litigation:	
Matters Start.....	114
New Matters Opened.....	987
Matters Closed.....	956
Matters End.....	145
Wildlife and Marine Resources:	
Matters Start.....	525
New Matters Opened.....	252
Matters Closed.....	200
Matters End.....	577
Division Totals:	
Matters Start.....	16,105
New Matters Opened.....	4,042
Matters Closed.....	5,773
Matters End.....	14,374

CITATIONS

- (1) *Thomas v. Union Carbide Agricultural Products Co.*, 105 S. Ct. 3325 (1985).
- (2) *J.V. Peters & Co., Inc. v. EPA*, 767 F. 2d 263 (6th Cir. 1985).
- (3) *Three-Mile Island Alert, Inc., et al. v. NRC*, 3d Cir., Nos. 85-3301, etc., August 27, 1985.
- (4) *Cuomo v. NRC*, D.C. Cir., No. 85-1042, July 3, 1985.
- (5) *Duekmanjian v. NRC*, D.C. Cir., Nos. 81-2034, etc., December 31, 1984, rehearing *en banc* pending.
- (6) *Riverside Irrigation District v. Andrews*, 758 F.2d 508 (10th Cir., 1985).
- (7) *Friends of Endangered Species, Inc. et al. v. Jantzen*, 760 F. 2d 976 (9th Cir. 1985).
- (8) *United States v. Dion*, 752 F. 2d 1261 (8th Cir., 1985); S. Ct. No. 85-246, *cert. granted* October 15, 1985.
- (9) *United States v. Dann*, 105 S. Ct. 1058 (1985).
- (10) *State of Alaska v. United States*, 9th Cir., 84-3625, February 28, 1985.
- (11) *Fred E. Langenegger, et al. v. United States*, 756 F. 2d 1565 (1985), *cert. denied*, 106 S. Ct. 78 (1985).
- (12) *In re: Armco, Inc.*, 770 F. 2d 103 (8th Cir. 1985).
- (13) *Chemical Manufacturers Association v. NRDC*, 105 S. Ct. 1102 (1985).
- (14) *Western Oil and Gas Association v. EPA*, 767 F. 2d 603 (9th Cir. 1985).
- (15) *Cerro Copper v. EPA*, 766 F. 2d 1060 (7th Cir. July 1, 1985).

- (16) *American Mining Congress v. EPA*, 772 F. 2d 617, 640 (10th Cir. 1985).
- (17) *Eagle Picher Co. v. EPA*, 759 F. 2d 905 (D.C. Cir. 1985).
- (18) *Reilly Tar and Chemical Co. v. United States*, 606 F. Supp. 412 (D. Minn. 1985); *Whetstone Industries v. U.S. EPA*, D. N.J. 84-4330 (July 11, 1985); *Lone Pine Steering Committee v. U.S. EPA*, D.N.J. No. 84-4513 (Jan. 21, 1985).
- (19) *Ciba-Geigy v. EPA*, 607 F. Supp. 1467 (D.D.C. 1985).
- (20) *City of New Brighton v. United States*, Civ. No. 3-84-1110 (D. Minn.) (pending).
- (21) *U.S. v. Conrad*, 745 F. 2d 70 (11th Cir. 1984).
- (22) *U.S. v. Tull*, 769 F. 2d 182 (4th Cir. 1985).
- (23) *National Wildlife Federation v. Marsh*, Civ. No. 82-3632 (D.D.C.).
- (24) National Environmental Policy Act, 42 U.S.C. 4321, *et seq.* (1969).
- (25) *Marathon Oil Co. v. Department of the Interior*, 604 F. Supp. 1375 (D. Alaska 1985).
- (26) *Merrell v. Thomas*, 608 F. Supp. 644 (D. Ore 1985).
- (27) Surface Mining Control and Reclamation Act, 30 U.S.C. 1201 *et seq.*
- (28) *U.S. v. Rapoca Energy Company*, D.C. No. 83-0038, (W.D. Va. 1985).
- (29) Omnibus Territories Act, 91 Stat. 1159.
- (30) Alaska Native Claims Settlement Act, 43 U.S.C. 1601 *et seq.* (1971).
- (31) Alaska National Interest Lands Conservation Act, 16 U.S.C. 3101 *et seq.* (1980).
- (32) *United States v. 234.6 Acres*, Civ. No. L-82-43, (S.D. Tex. 1985) (1980).
- (33) *United States v. 10,031 Acres*, Civ. No. 83-1176, (D. Colorado 1985).
- (34) *United States v. 298.25 Acres*, Civ. No. 75-0061-H, S.D. W. Va. 1985.
- (35) *United States v. 24.48 Acres*, Civ. No. 4-81-190-K, N.D. Tex. 1985.
- (36) Endangered Species Act, 16 U.S.C. 1531, *et seq.* (1973).
- (37) Magnuson Fishery Conservation and Management Act, 16 U.S.C. 1801, *et seq.* (1976).
- (38) Marine Mammal Protection Act, 16 U.S.C. 1361, *et seq.* (1972).
- (39) Lacey Act Amendments of 1981, 16 U.S.C. 3371, *et seq.* (1981).
- (40) *Claus v. United States*, Civ. No. S84-1310 LKK (E.D. Cal.) (dismissed September 10, 1985).
- (41) *Friends of Endangered Species v. Jantzen*, *supra* note 7.
- (42) *United States v. TerraOnne Petroleum Corp., et al.*, Civ. No. 84-3080 (W.D. La.) (dismissed November 8, 1984).
- (43) *United States v. International Minerals Corp., et al.*, Civ. No. 85-2270 (W.D. La.) (pending).
- (44) *American Cetacean Society, et al., v. Baldrige, et al.*, 768 F. 2d 426 (D.C. Cir. 1985).
- (45) *United States v. Nikko Maru*, Civ. No. A83-578 (D. Alaska) (dismissed January 15, 1985); *Nichiro Gyogyo Kaisha, Ltd. v. Baldrige* (Nichiro II), No. 84-5275 (D.C. Cir.) (dismissed January 17, 1985); *Nichiro Gyogyo Kaisha, Ltd. v. Baldrige* (Nichiro I), Civ. No. 84-0012 (D.D.C.) (dismissed November 7, 1984).
- (46) *Livingston, et al.*, 465 So. 2d 507 (Fla. S. Ct. 1985); *Florida v. Baldrige* (Florida I), Civ. No. 83-7071WS (N.D. Fla., Stipulation of Settlement entered January 7, 1985); *Florida v. Baldrige* (Florida II), Civ. No. TCA 83-738 OWS (N.D. Fla., Stipulation of Settlement entered January 7 1985); *Alaska v. F-V Barnanof*, 677 P. 2d 1245 (Alaska S. Ct. 1984).
- (47) *Lovgren v. Byrne*, Civ. No. 84-2436 (D. N.J.) (Order of January 24, 1985).
- (48) *United States v. Loren J. Ellison*, Crim. No. 84-9-BU (D. Mont.) (23 years) (Sentence imposed March 19, 1985); *United States v. Earl K. Fike*, Crim. No. 84-26 BLG (D. Mont.) (17 years) (Sentence imposed March 25, 1985).

Immigration and Naturalization Service

Alan C. Nelson
Commissioner

The Commissioner of Immigration and Naturalization is responsible for administering and enforcing the Immigration and Nationality Act, as amended, and serves as the principal advisor to the Attorney General and the President on immigration and naturalization policy. The Immigration and Naturalization Service (INS) oversees the implementation of the immigration, naturalization, refugee and asylum laws of the United States through a broad network of regional and district offices located throughout the country, and in some foreign nations, that function in two operational and two support areas:

- Examinations, concerning activities related to the admission of people to the United States,
- Enforcement, concerning activities to prevent illegal entries and to apprehend and remove those who enter illegally, and
- Information systems and management support, which provide the support services necessary to conduct the Service's basic missions.

In continuing efforts to streamline the INS organization, several actions were taken. A proposal was submitted to consolidate four regions into just three; two smaller district offices were consolidated into larger ones; several Central Office functions were combined; and two regional telephone centers were established to unite the public inquiry operations of major district offices in both the Eastern and Western regions.

Significant progress was made in reaching agreement with states to participate in the Systematic Alien Verification for Entitlement program, which enables state and local agencies determining entitlement benefits to verify an alien's status through INS computers. California, Colorado, and Illinois had previously signed agreements; Florida agreed to participate as of June 1985, and a test program is underway in Texas. Talks are underway with several additional states, and it is anticipated that further contracts will be signed in the near future.

Operational improvements were implemented, including strengthened law enforcement capability. Detention capacity was increased, and additional Border Patrol Agents were trained and placed on duty on the southern border as called for in the Fiscal Year 1985 budget.

Office of General Counsel

The General Counsel is responsible for providing legal counsel to the Commissioner and INS operations officials on matters of law arising from the administration and enforcement of the immigration and nationality statutes. The General Counsel is the chief of all INS attorneys.

Significant litigation and litigation support achievements for Fiscal Year 1985 include:

- Successful litigation of two cases before the U.S. Supreme Court;
- The litigation of more than 700 cases in federal district courts and courts of appeals where the Service's position was upheld in over 90 percent of the cases;
- Expansion of the Special Assistant U.S. Attorneys program which places INS attorneys in the offices of U.S. Attorneys, not only to engage in the defense of civil litigation but in the prosecution of criminal cases such as Cuban criminals, alien smugglers, and drug traffickers;
- Support for litigation programs of the Office of Immigration Litigation by seeking to enforce state employer sanction laws through prosecution of those employers engaged in a pattern and practice of knowingly hiring illegal aliens; and
- Publication of a litigation handbook as well as special manuals and training materials for INS attorneys.

Additionally, the Office of General Counsel:

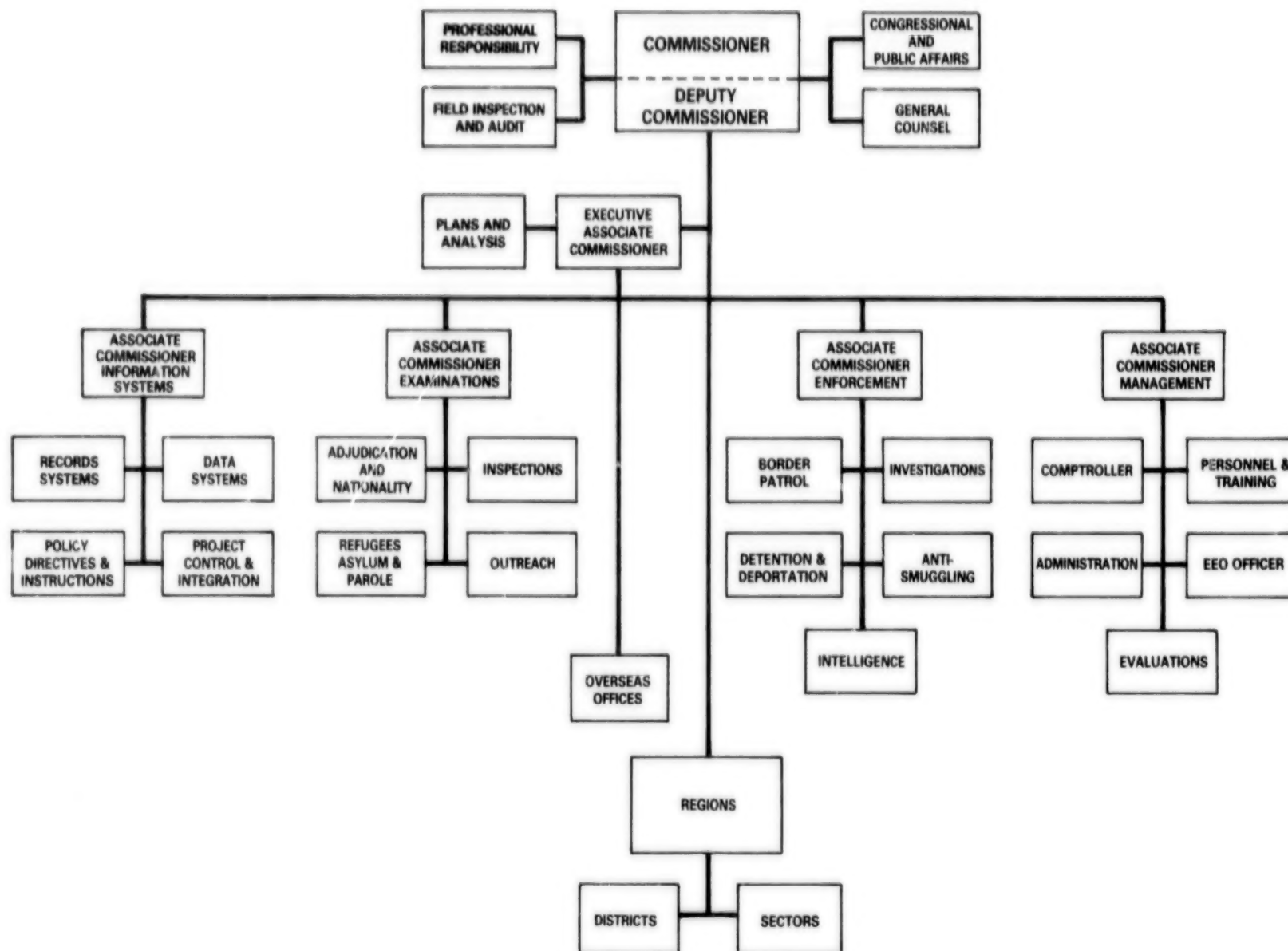
- Collected over \$3 million of outstanding debts owed the INS, a 34 percent increase over Fiscal Year 1984;
- Participated extensively in legislative programs by preparing testimony, counseling witnesses, analyzing and commenting on legislative proposals, and drafting the Administration's position on the proposed major reform legislation;
- Supported the Systematic Alien Verification for Entitlement program by working with other federal, state, and local authorities to help detect fraud in welfare benefits and other entitlement programs; and
- Participated in successful negotiations with Cuba to return excludable Cubans to their home country. The performance of this agreement, however, was subsequently suspended by the Cuban government in response to Radio Marti.

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IMMIGRATION AND NATURALIZATION SERVICE



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Field Inspections and Audit

This Office provides the Commissioner with independent appraisals of the efficiency, economy, and effectiveness of INS programs and operations.

In Fiscal Year 1985, inspections, audits, and special reviews at the Central, regional, and field office levels led to a number of recommendations, such as:

- Reinforcement of the concept of a national fines office,
- Enhancement of regional adjudications centers,
- Improved coordination between Investigations and other program managers,
- Incorporating abscondee casework into the basic structure of case management, and
- Determining the extent to which investigation of Section 212(c) waivers are practical.

Office of Professional Responsibility

This Office investigates allegations of duty-related criminal activity by Service employees and, through Management Integrity Reports and Seminars, alerts managers and supervisors to potential weaknesses in the control systems that could lead to criminal activity. It is organized into four field offices and a Central Office in Washington, D.C.

In the past year, 520 allegations were received. Of these, 213 were referred to the regions for investigation. Major categories were: sale of INS benefits such as permanent residency, smuggling of aliens, civil rights/physical abuse, and supervisory and managerial misconduct.

Office of Congressional and Public Affairs

The Office of Congressional and Public Affairs is responsible for coordinating Service communication, interaction and liaison with the Congress, press, and public. As part of this mission, the Office is responsible for intergovernmental relations with other federal agencies as well as with state and local government units. Additionally, this Office supervises the design and production of printed and other communication materials for the agency. The Office is organized into two units: the Office of Congressional Affairs and the Press Information Office.

Congressional Affairs coordinated the effort to secure passage of major immigration reform legislation during the 98th Congress. Reform bills were passed by the Senate in 1983 and the House in 1984, but a Senate-House Conference Committee failed to agree on a consensus bill in the last days of the 98th Congress.

The Office conducted liaison with other government agencies and aided INS briefings of dignitaries from 14 countries.

The Office held two seminars for congressional staff workers in Washington, D.C., and assisted INS field officers in planning and conducting seminars for congressional district staff workers in 12 cities.

Approximately 30,000 telephone inquiries were received from Congress and other sources. The Office prepared more than 4,800 written responses to congressional inquiries and received and relayed to field offices reports of agency checks in more than 1,000 specially expedited orphan petition cases.

Press Information Office

The Press Information Office is responsible for coordinating and responding to inquiries about INS activities and policies from the nation's news organizations. The Office also produces two periodic publications on major Service activities for informational purposes.

To help implement the Commissioner's policy goal of being more vocal about Service operations and policies in the public forum, media relations training sessions were continued throughout 1985. Training sites in Burlington, Vermont, and Philadelphia, Pennsylvania, were used for on-camera experience in dealing with television news media.

Two Public Information Offices were added to the Service this fiscal year—in the regional offices of Dallas and Burlington—thus expanding the total in the Service to six. This action was for the purpose of creating a greater number of media contact points across the nation.

In an effort to guide Service managers in responding to the media, the Press Information Office sponsored the Third Annual Public Affairs Conference in Denver, Colorado, in August. Attending the Conference were members of the Central Office Public Affairs staff, Regional Press Information Officers, District Directors, Chief Patrol Agents and the Southern Regional Commissioner.

Media relations techniques were discussed, as were significant public affairs issues that arose during the past year. Immigration legislation, sanctuary, asylum and marriage fraud received significant attention from the press in Fiscal Year 1985.

The Commissioner appeared before a number of groups to speak on a variety of media significant matters relating to immigration throughout the year. In March, he spoke in Miami about the shift of immigration concerns from the U.S./Mexican border to south Florida. The Center for Migration Studies hosted the Commissioner for a speech dealing with immigration and refugee policy. The Commissioner also spoke before the Los Angeles World Affairs Council and the Pittsburgh World Affairs Council, both on the relationship between U.S. Immigration and foreign policy.

The Commissioner met with church groups as well as the media to explain the INS position on the sanctuary movement. He debated the issue in March of this year with

Reverend Dr. William Sloane Coffin, Jr., a leader of the movement.

Office of Deputy Commissioner

This Office assists the Commissioner in all aspects of administering the Service. The Deputy Commissioner oversees the day-to-day operations of the agency, exercising authority delegated by the Commissioner and performing such functions as he may assign. In the absence of the Commissioner he serves as Acting Commissioner, representing the Commissioner in discussions with the general public, Members of Congress, associations, and special interest groups.

The Deputy Commissioner has primary responsibility for coordinating the activities of program managers in the Central Office with line operations in the field through the Regional Commissioners.

In Fiscal Year 1985, this Office:

- Continued the operation of the Service's Priorities Management System, increasing the results orientation of annual objectives and incorporating plan changes through a contractual agreement among principals using a "Management by Objectives-like" system.
- Conducted an analysis of the return on investment of Service operations. This demonstrated that INS is currently avoiding \$364 million annually and has increased the Service's attention to the cost avoidance implications of operating decisions.
- Emphasized the extension of preclearance and preinspection activities to high-volume air terminals overseas. This has resulted in the development of a coordinated government posture of support for this initiative and increased the receptivity of several foreign nations.
- Instituted a conference control system to reduce travel and related costs involved in conferences, seminars, and training sessions conducted by INS.
- Played an important role in advocating the Administration's posture on H-2 (temporary worker) regulations with Members of Congress and representatives of the industry.
- Was a leading advocate of organizational streamlining, proposing reductions in the number of districts and realigning and reducing the number of regions. These proposals have the promise of reducing overhead costs without negative impact on operations.

Office of the Executive Associate Commissioner

The Executive Associate Commissioner assists the Commissioner and Deputy Commissioner in all aspects of the administration of the Service, and in formulating and monitoring Servicewide goals, objectives, and priorities. As the third in command, the Executive Associate Commissioner has both line and staff functions with primary responsibility for oversight and coordination of policies and programs relating to agency management systems, strategic planning, information resource management, new Servicewide initiatives and special projects. This Office also supervises the Overseas Offices, Plans and Analysis, Information Systems, and Examinations.

Overseas Program

In 1985, INS sought to deter the illegal entry of aliens by putting programs in place overseas to discourage them from even starting out. The logic is that it is easy and cost efficient to intercept or prevent potential illegal aliens from entering before their actual arrival at our gates.

Duties of INS overseas employees will shift from routine and marginally effective deterrence efforts to more meaningful roles. By collaborating with host governments, airline officials, and other U.S. agencies abroad, INS has begun to shut off illegal immigration routes to the United States. Information of an intelligence value can be compiled and disseminated to INS offices elsewhere to prevent fraud once aliens have arrived. In addition to those field-level efforts, INS Headquarters has begun to implement systems through which information about aliens can be quickly exchanged between INS and the Department of State.

We estimate our overseas personnel were directly responsible for the prevention of over 2,100 aliens destined to enter the United States illegally during the first six months of Fiscal Year 1985. It is significant that most interceptions of "third country" nationals were made by cooperating host governments.

The direct interception of an alien overseas results in two other factors: 1) the act of preventing one from illegal entry is a major disincentive to others seeking to use the same route (potentially a greater number than intercepted), and 2) aliens stopped abroad never enter the deportation system; therefore, costs for detention and expulsion are nil. At an estimated \$760 per person for removing an illegal alien from the United States, this amounts to a cost avoidance of more than \$1.5 million for the 2,100 intercepted during the six-month period.

Office of Plans and Analysis

The Office of Plans and Analysis serves as the principal staff advisor to higher management for the development and

implementation of Servicewide policies, strategic plans and programs. In this capacity the Plans and Analysis staff provided the analysis required for a 1985 Servicewide review of district office structure and workload and assisted INS managers in the development of a new five-year Mission Plan for INS.

In addition to its advisory role, Plans and Analysis devoted much of its 1985 efforts to improving and expanding information about existing and potential alien populations in the United States. Accomplishments include: 1) award of a research contract to obtain information on the illegal alien population residing in the United States, 2) organization of a research clearinghouse to provide an internal source of information on immigration and immigration-related matters, 3) development of a survey of Mariel Cubans regarding the probable future flow of their relatives into the United States, and 4) major improvements in INS statistical systems as the result of an INS-funded study on immigration statistics conducted by the National Academy of Sciences.

Examinations Division

The Examinations program involves inspections for admissibility of persons arriving at the U.S. sea, land, and air ports of entry; adjudication of applications and petitions for benefits provided by law, and appeals from these decisions; supervision of refugee, asylum, and parole programs; examinations of applicants for naturalization; and INS outreach activities to the community.

Adjudications and Naturalization

This section is responsible for the processing and adjudication of applications and petitions filed by aliens and citizens for benefits under the Immigration and Nationality Act. Largely due to management emphases and improvements and assistance from the Enforcement section, adjudications backlogs were almost totally eliminated, thereby achieving a major goal for Fiscal Year 1985.

The naturalization/nationality backlog did not increase nationwide, despite a 7.4 percent increase in new applications over the previous year. The adjudications backlogs have been almost completely eliminated, with backlogs remaining at only a few isolated offices.

This was effected again this year through the Priorities Management System which set numerical goals for each region to reduce severe backlogs and also, for the second year, through Balanced Adjudications System, under which certain types of applications were sent either to ports of entry for completion by inspectors during standby time or to Remote Adjudications Centers. As a result, port of entry completions increased 13 percent and Remote Adjudications Center completions increased 41 percent.

Working with the courts to secure additional hearings, INS arranged naturalization proceedings for more than 250,000 persons in 1985, an increase of 11 percent over the previous year. In another record year in Los Angeles, 13,000 persons became naturalized U.S. citizens on June 20 and 21, 1985, followed by another 13,000 new citizens on July 31 and August 1, 1985.

Inspections

This Section is responsible for the enforcement of U.S. immigration law through determination of admissibility to or exclusion from the United States. Its task is to facilitate entry of persons at some 200 U.S. ports while maintaining the integrity of the immigration laws. Fiscal Year 1985 saw significant achievements in both old and new programs.

Inspections Prosecution Program. This was expanded to 12 ports of entry. Inspectors detecting a violation process cases themselves instead of turning them over to an enforcement branch unit. It has met with spectacular success—both in improved relations with U.S. Attorneys and, statistically, with a successful conviction rate of over 90 percent nationwide.

Inspections Vehicle Seizure Program. Inspectors are now handling each vehicle seizure case at ports of entry instead of turning cases over to an enforcement branch unit. This has led to more timely and efficient processing of cases and to a 10 percent increase in vehicles seized at ports of entry.

Fraud Intercept Task Force. The Task Force has, in its second year, proved that the amount of time available for the inspection of an alien is directly related to the rate of detection of fraudulent and malafide applicants for admission. The Fraud Intercept Task Force operated at nine sites and allowed each inspector to take slightly more time to inspect each person without impeding the flow of traffic. For example, in Calexico a time increase of 34 percent or 3.4 seconds for the primary inspection process produced an average increase of 63 percent in the rate of fraud detection and 156 percent in the rate of malafide detection.

Preclearance. INS has determined that federal inspection of passengers in a foreign port prior to embarkation for the United States is the most cost-effective, efficient way to process international travelers. With the assistance of the Department of State, the Service has entered into discussions with several foreign countries to promote establishment of preclearance facilities in those countries. Preclearance is a decided deterrent factor in that the illegal passenger is detected *before* ever reaching our shores. This results in an overall savings by eliminating the need for costly legal hearings and deportation processing.

Refugee, Asylum and Parole

This Office is responsible for refugee and asylum programs, the budget oversight of INS overseas offices, the ad-

judication of requests for the exercise of the Attorney General's parole authority and, with the Coast Guard, the interdiction and return of undocumented aliens on the high seas.

In Fiscal Year 1985, exceptional progress was achieved toward the goal of current adjudication of asylum claims. At the beginning of the year, pending cases exclusive of Cubans and Haitians numbered 9,399. By the end, such pending claims were reduced to less than 5,000—even though new filings have remained at high levels. Designation and training of a special cadre of asylum examiners was a significant accomplishment in 1985.

Overseas refugee processing in Fiscal Year 1985 resulted in nearly 60,000 approvals for admission to the United States. As in recent years, Southeast Asia remains the greatest source of refugees, accounting for two-thirds of the total. Progress toward immigration normalization in this region continues, however, as the actual number and percentage of Southeast Asian admissions continue to drop.

The number of Haitian economic migrants interdicted on the high seas increased 79 percent in Fiscal Year 1985. Nearly 3,800 were intercepted and returned to Haiti after interviews by INS officers on board U.S. Coast Guard cutters. Each interdictee was interviewed to determine motivations for leaving Haiti. None were found to have a well-founded fear of persecution.

Outreach Program

The Outreach Program provides liaison, training, and technical assistance to voluntary and community agencies involved in immigration counseling and refugee resettlement.

The Mariel Cuban Registration Program was the primary Outreach activity during the fiscal year. Cooperating closely with the Adjudications and Naturalization Unit and the Community Relations Service in planning the registration/adjustment program, the Outreach Program played a pivotal role in discussions leading to the Community Relations Service transferring \$2 million to INS to implement the program.

The Outreach Program successfully organized voluntary and community organizations across the country to register approximately 97,000 Mariel Cubans during December 1984 and January 1985. The purpose of the registration drive was to facilitate the followup adjustment program by determining the location of the largest concentrations of Mariel Cubans, staffing examiner and clerical positions to meet the anticipated workloads, and transferring case files to the appropriate INS offices. The Outreach Program conducted 25 training workshops for 640 voluntary and community agency participants who were assisting eligible Mariel Cubans to prepare and submit adjustment applications according to INS instructions. In order to assure a steady flow of adjustment applications, Outreach staff have continued

to provide onsite followup technical assistance to voluntary and community agencies in the heavily impacted areas of Miami, New York, Chicago, and Los Angeles.

In addition, the Outreach staff conducted 12 regular workshops for 476 participants in 10 states. Workshop topics covered family reunification and adjustment of status, visa processing abroad, asylum, refugee processing, foreign student regulations, and exclusion and deportation hearing procedures. The workshops are intended to instruct voluntary and community agency staffs on how to comply with INS regulations in preparing and submitting applications and petitions to the Service, thus reducing INS screening and adjudicating time.

Administrative Appeals Unit

During Fiscal Year 1985, the Administrative Appeals Unit completed nearly 4,000 appeals, 1200 more than during Fiscal Year 1984. The Administrative Appeals Unit has now been operational for two years and has been extremely successful in providing the public with uniform, quality decisions. Despite a sharp increase in the number of cases received, the Unit has kept its processing time down to about 60 days. In addition, five cases were selected for publication as precedent decisions.

Information Systems Division

The Information Systems Division provides technical direction and support in the achievement of the goals and strategies set forth in the Service's Long-Range ADP Plan. Particular emphasis is placed on the Commissioner's priority initiatives for each year. The functional areas under Information Systems during Fiscal Year 1985 were Records Systems, Policy Directives and Instructions, Project Control and Integration Division, and Data Systems.

Records Systems Division

This office is responsible for evaluating records management programs that support INS management and operational needs, including maintenance and use of centralized alien files and records and providing policy guidance and technical support on records management activities and the Freedom of Information Act and Privacy Act procedures. In addition, the office responds to inquiries from the public and other federal agencies on immigration laws, regulations and procedures.

The Records Systems Division continued in Fiscal Year 1985 to improve service to the public and INS mission-oriented operations by: 1) implementing an automated Freedom of Information Act and Privacy Act Case Tracking and Reporting System to support administration at all levels of INS, 2) participating with the General Services Administration in a Servicewide mail economy demonstration

project which amounted to an estimated annual savings of \$700,000, 3) testing an unattended 24-hour-a-day taped "Ask Immigration" telephone answering system to enable INS offices with a minimal work force to be able to provide assistance and information more efficiently to the public when this concept is expanded, and 4) implementing the Cuban Adjustment Program System in early April 1985 to support the special adjustment effort.

Office of Policy Directives and Instructions

This Office is responsible for the development and publishing of the Service's policy and directives statements, and maintenance of the operations and instructions laws of the Service. In Fiscal Year 1985: 1) the on-line Directives and Instructions Access System was implemented, providing access to the INS Law Books; i.e., the Immigration and Nationality Act, the Code of Federal Regulations, and the Operations Instructions and Interpretations; and 2) eight forms representing approximately 80 percent of the applications received from the public were redesigned to promote the collection of complete and necessary information with greater economy and efficiency, as well as reduce confusion for the general public.

Project Control and Integration Division

The Division is responsible for automated data processing (ADP) planning, software engineering, and data base management expertise to support systems development efforts. In general, it advises on systems standardization, software, training of INS personnel, and resource use and management.

In Fiscal Year 1985, the Project Control and Integration Division: 1) updated the INS Long Range ADP Plan to reflect changes in priorities and progress made thus far; 2) began implementation of an eight-year, \$60 million computer hardware acquisition and office automation equipment contract to IBM; and 3) continued work on Project INFORM, a long-term project to help local offices improve their files' accountability systems, including cleaning up record backlogs.

Data Systems Division

The Data Systems Division is responsible for the development of application systems that encompass ADP, word processing, telecommunications, and for radio and sensor equipment for the functional entities of the Service.

Data Systems and the Justice Management Division have continued to increase production processing at the Southwest Data Center in Dallas, Texas. This Data Center is a companion data center to the Washington operation, which also supports critical INS applications.

Automated systems support that the Service has delivered to its users during Fiscal Year 1985 includes: 1) the

Naturalization Casework System, which allows Examinations staff to track cases from receipt to naturalization. This was installed in Chicago, San Francisco, and Miami. Additionally, both the Deportable Alien Control System, which tracks individuals who have been put under docket control and the Legal Case Tracking System, which maintains information on Deportable Alien Control System cases referred for formal proceedings, became operational in the Chicago District Office. 2) the Central Index System, consisting of approximately 20.6 million alien case files which comprise the 147 million record data base. This was placed into full production operation in September 1985. 3) expansion of the National Automated Immigration Lookout System, which was made available Servicewide in June 1984. This on-line system is now operational in secondary inspections sites at the New York, Baltimore, Boston, Miami, San Juan, Chicago, Seattle, and Honolulu airports. 4) implementation of the Seized Vehicle Information System, which interfaces with the Anti-Smuggling Information System. The Seized Vehicle Information System will be used to identify the type, location, and disposition status for each conveyance seized by the Service. INS seizes approximately 9,000 conveyances per year, and 5) the expansion of the Intergrated Network Communication System, which provides on-line terminal support for over 114 INS field offices in the United States, Puerto Rico, and the Virgin Islands.

Enforcement Division

The Enforcement Division is responsible for the development and evaluation of programs to guard against illegal entry into the United States and to investigate, apprehend, and remove aliens who are in this country in violation of the law. The functional programs under Enforcement are Border Patrol, Investigations, Anti-Smuggling, Detention and Deportation, and Intelligence.

Border Patrol

The Border Patrol is the mobile, uniformed enforcement arm of the INS, and is charged with detecting and preventing the illegal entry and smuggling of aliens into the United States. Patrol Agents operate along 6,000 miles of international boundary and the gulf coast using sophisticated technology such as sensors, infrared detection devices, low-light level television, and virtually every kind of conveyance from horses to helicopters. Fiscal Year 1985 records show that 1,262,435 aliens were apprehended, which is 10.9 percent more than the previous year. The Border Patrol seized over \$119 million worth of narcotics for an increase over the previous year of 183 percent.

In a continuing effort to control border crime and apprehend illegal border crossers, a unique Foot Patrol, consisting of El Paso police officers and Border Patrol Agents

walking specific "beats" together, made 21,126 apprehensions in Fiscal Year 1985. A similar program using Border Patrol Agents and San Diego police officers to patrol the canyons and brushy areas near the border in southern California to reduce violence by border bandits against illegal border crossers has again proven highly successful.

Implementation of the single largest enhancement package in Border Patrol history was accomplished by the addition of 768 new officer positions. Twenty-four basic training classes were commenced at the Border Patrol Academy during Fiscal Year 1985 and the overall benefit of the new officers is just starting to be realized.

Investigations

The Investigations Division identifies violations of the Immigration and Nationality Act and related federal statutes and presents violators for prosecution. It also gathers information to support administrative proceedings under the Act and to remove aliens who are unlawfully residing in the United States.

In Fiscal Year 1985, Investigations' principal objectives were to concentrate four-fifths of its resources on fraud and high-impact level cases. Additionally, investigative task force operations were initiated against major fraud facilitators, document vendors, and employers of illegal aliens to address the problem of displacement of U.S. citizens and legal permanent residents in the national work force.

These task force investigations with other federal and state agencies uncovered large-scale document counterfeiting operations, schemes to fraudulently obtain entitlement benefits and loans, and conspiracies to help aliens enter or remain unlawfully in the United States. Task Force investigations and other fraud cases have resulted in the successful arrest and prosecution or denial of benefits in 3,130 cases involving marriage fraud, labor certification fraud, and visa fraud facilitators.

The Systematic Alien Verification for Entitlement Program, and the INS-conducted entitlement fraud investigations yielded a savings in excess of \$110 million in fraudulent claims for entitlement benefits made by ineligible aliens.

Successful employer investigations resulted in the cessation of hiring of illegal aliens by more than 1,100 employers, thereby reducing the "pull" that potential employment exercises as a motive for illegal entry or stay in the United States.

Anti-Smuggling

The Office of Anti-Smuggling Activities focuses on the detection, apprehension, and successful prosecution of organized conspiracies engaged in smuggling and transporting illegal aliens into this country. Using sophisticated

investigative techniques to identify and infiltrate major violators, this program has successfully terminated criminal operations not only engaged in high volume alien smuggling, but also in extortion, murder, kidnaping, peonage, terrorism, and international document fraud.

Major investigations involving interagency and inter-regional task forces in 1985 resulted in the successful prosecution of a large-scale alien smuggling and narcotics ring operating out of a truck stop in the El Paso, Texas, area. Another similar operation in the San Diego, California, area resulted in felony smuggling and conspiracy indictments against the head of a smuggling ring and 40 coconspirators, who had brought an estimated 100 aliens into this country daily using commercial and recreational vehicles and even a horse trailer to evade checkpoint inspection.

In Fiscal Year 1985, INS officers apprehended 18,077 alien smugglers and seized 10,348 conveyances used in smuggling operations valued at more than \$52 million.

Detention and Deportation Division

The Detention and Deportation program is responsible for the detention and expulsion of aliens who are in the United States in violation of the law. A major priority of the Service in Fiscal Year 1985 was to provide adequate detention space and services consistent with apprehension needs. Toward that end, the combined rated capacity of the seven Service Processing Centers was expanded to 2,239. Additionally, INS continued to work with the Bureau of Prisons on the design and construction of the 1,000-bed Oakdale, Louisiana, Alien Detention Center which will become operational early in Fiscal Year 1986.

Beginning in December 1984 the INS, the Department of State, and the Bureau of Prisons worked together on the Cuban Repatriation Program. The negotiated list contained the names of 2,746 Mariel Cubans whose return Cuba had agreed to accept. Prior to suspension of the agreement on May 20, 1985, five flights into Cuba were conducted which resulted in about 200 criminal Mariel Cubans being repatriated.

The Detention and Deportation Division worked with the Office of Justice Programs on the implementation of P.L. 98-411. That law provided \$5 million to be distributed on a one-time basis as a reimbursement to states which had incarcerated Mariel Cubans. A total of 1,869 names were submitted by various state governments and, of those, INS verified 1,716 as Mariel Cubans.

Intelligence Office

The Intelligence Office provides strategic and tactical intelligence support and technical assistance to INS policymakers and field personnel to help deter: 1) entry into the United States by illegal aliens, 2) international terrorism, 3) narcotics trafficking, 4) alien smuggling, and

5) fraudulent schemes to gain federal entitlement benefits. This Office works with various federal law enforcement and intelligence-gathering agencies, both civil and military.

Toward achieving one of the Commissioner's 1985 priorities, deterrence at overseas locations of illegal entry to the United States, the Intelligence Office expanded its joint effort with the Department of State by offering training seminars to foreign airline and immigration officials in Haiti, the Dominican Republic, Curacao, the Bahamas, Panama, Mexico, El Salvador, and Guatemala. The seminars focused on more effective detection of fraudulent documents.

Forensic Document Laboratory

The Forensic Document Laboratory provides scientific analysis of questioned documents and subsequent testimony in resultant criminal cases. In addition, the Laboratory does research in the field of document fraud, provides technical assistance to field personnel, and assists in developing counterfeit-resistant identification documents. In a complex interagency project, the Forensic Document Laboratory provided critical expert analyses in the highly complex case of the former Nazi "Angel of Death," Josef Mengele.

El Paso Intelligence Center

The El Paso Intelligence Center operation is a multifederal law enforcement agency in which INS personnel play a major role by maintaining several data bases, including Mexican Border Smuggling and Fraudulent Document Indexes in the Integrated Combined Systems. In addition to participating in an around-the-clock watch, INS staff also provide tactical and analytical intelligence support to INS operational field staff and other requestors.

Office of Management

This Office provides management, budgetary and administrative policy and support services necessary for the efficient conduct of the INS mission.

Major initiatives pursued during Fiscal Year 1985 centered on the delivery of services and operational support needed for the timely completion of the Commissioner's Key Priorities and the continuation of multiyear projects designed to achieve maximum savings and efficiency under the auspices of the Administration's Reform '88 Management Improvement Program. Management improvement actions, such as the internal control process mandated by the Federal Managers' Financial Integrity Act and Office of Management and Budget Circular A-123, as well as productivity projects (A-76) and initiatives sponsored by the Cabinet Council on Management and Administration, and the President's Private Sector Survey on Cost Control (Grace Com-

mission) provided the impetus for these improvement activities.

Administration

This office is responsible for contracting and procurement, property and vehicle fleet management, general services, security, health and safety, facilities and engineering, and publications.

Major accomplishments in Fiscal Year 1985 included the development of an automated Real Property Management System which will enable the Service to significantly improve facility maintenance, utilization and accountability. Also, the initiation of a nationwide vehicle maintenance program for repair services is expected to substantially reduce repair costs and provide improved cost control over the approximately 3,500 vehicles in the INS fleet.

Additionally, the combined efforts of the Facilities, Contracts and Fleet Management staffs resulted in the timely provision of the new facilities, vehicles, and equipment needed to support the Southern Border Enforcement initiative.

Comptroller

This office reviews Service resource requirements and utilization, coordinates the development of the INS budget submission, and develops and implements accounting policy and procedures.

During Fiscal Year 1985, two notable regulatory changes were developed and implemented, resulting in significant revenue enhancement: 1) Air carriers arriving at airports not designated as International Airports will now reimburse INS for inspectional overtime costs. This change will generate \$5 million annually in additional revenues. 2) Air carriers will now be required to pay the excess costs of using preclearance inspection at designated foreign locations. This change will generate \$1.5 million annually in additional revenues.

Personnel and Training

This office is responsible for the development, implementation, administration, and evaluation of personnel management programs and of programs for technical training and employee development.

During Fiscal Year 1985, major efforts focused on the hiring and training of approximately 1,200 Border Patrol Agents. Following the completion of training at the Border Patrol Academy, these trainees will be assigned to various duty locations along the southern border as part of the Enforcement Enhancement initiative.

Evaluation and Management Assistance

This office provides comprehensive management consultant and evaluation services to all levels of INS management

in order to ensure optimal effectiveness and efficiency of INS programs.

During Fiscal Year 1985, this office conducted or participated in the following special studies: 1) DOJ/INS Study to Develop an Integrated Resource Allocation System for INS and the Executive Office for Immigration Review, 2) Confiscated/Forfeited Vehicle (Contracting Out of Towing and Storage of Seized Vehicles), 3) Evaluation of INS ADP Security, 4) Evaluation of Impact on Non-Immigration Inspector Personnel, 5) DOJ Study of Administratively Uncontrollable Overtime, and 6) Evaluation of Administrative Support in INS Executive Offices.

Equal Employment Opportunity

This office is responsible for the development, implementation, administration, and evaluation of Servicewide equal employment opportunity programs pursuant to Title VII of the Civil Rights Act of 1964 and related equal employment

opportunity laws governing the employment of handicapped and disabled veterans.

In Fiscal Year 1985, the number of minority employees increased from 37.6 to 39.7 percent of the total INS work force. Representation of women employed by INS increased by 177 to 35.4 percent. In addition, there have been significant gains by women and minorities in key INS occupations. The number of women employed as Border Patrol Agents increased by 64.6 percent (from 65 in 1984 to 107 in 1985) and the number of Hispanics employed as Border Patrol Agents increased by 55.6 percent (from 612 in 1984 to 954 in 1985).

Additionally, this office provided guidance and training to INS managers and supervisors on equal employment opportunity matters. This has contributed to a higher level of complaints of discrimination being settled or otherwise resolved prior to issuance of final agency decisions at the departmental level.

Community Relations Service

Gilbert G. Pompa
Director

The primary responsibility of the Community Relations Service (CRS) is set forth in Title X of the Civil Rights Act of 1964 (42 U.S.Code 2000g): "It shall be the function of the Service to provide assistance to communities and persons therein in resolving disputes, disagreements, or difficulties relating to discriminatory practices based on race, color, or national origin..."

Under this basic mandate, the agency provides conciliation-mediation assistance directly to troubled communities to facilitate voluntary, peaceful resolution of racial-ethnic conflict. This mission, designated Program Area I, is carried out through 10 regional offices which are regularly alerted to community problems by local officials seeking assistance, by other interested parties, through direct observation by CRS staff, or through news media reports. Disputes determined to be within the agency's jurisdiction are carefully assessed to establish the specific issues involved, the disputing parties and their positions, whether the disagreement appears amenable to the agency's voluntary process, and the objectives to be pursued.

Then whatever steps necessary to resolve the dispute are initiated through conciliation or formal mediation. CRS has complete discretion in providing this dispute resolution assistance to communities, subject to the immediate supervision of the Deputy Attorney General.

A second major agency responsibility involves the care and processing of Cuban and Haitian entrants as authorized by Title V of the Refugee Education Assistance Act of 1980 (P.L. 96-442) and by Executive Order 12341 of January 21, 1982, which transferred these functions to the Department of Justice. The mission of the Cuban-Haitian Entrant Program, which CRS designates as its Program Area II, is to provide humanitarian assistance for persons in detention or institutional care, and placement and resettlement services for those who are released.

Office of the Associate Director for Field Coordination

The Associate Director for Field Coordination is responsible for monitoring the day-to-day delivery of conciliation-mediation services by the agency's regional offices. The Office is charged with ensuring that routine operational problems are addressed, that the regional offices are kept informed of policy decisions and other management actions affecting casework, and that casework adheres to policy directives, established priorities, and agency standards.

Office of the Associate Director for Technical Assistance

The Associate Director for Technical Assistance is responsible for providing support services to the agency's regional offices to facilitate the effective delivery of conciliation-mediation assistance. The Office keeps the field staff apprised of pertinent developments in such areas as police practices and school trends, assists onsite when necessary, develops publications and other materials needed in casework, conducts research on new problems, and maintains a bank of consultants who are qualified to provide expert knowledge required to resolve complex disputes.

Office of the Associate Director for Policy Development

The Associate Director for Policy Development oversees the functioning of the agency's Operational Planning System, a central system for policy analysis, planning, management information flow and analysis, and program evaluation. The Office also plays a key role in budget preparation in cooperation with the Office of the Associate Director for Administration, and initiates policy options for the Director's consideration.

Office of the Associate Director for Administration

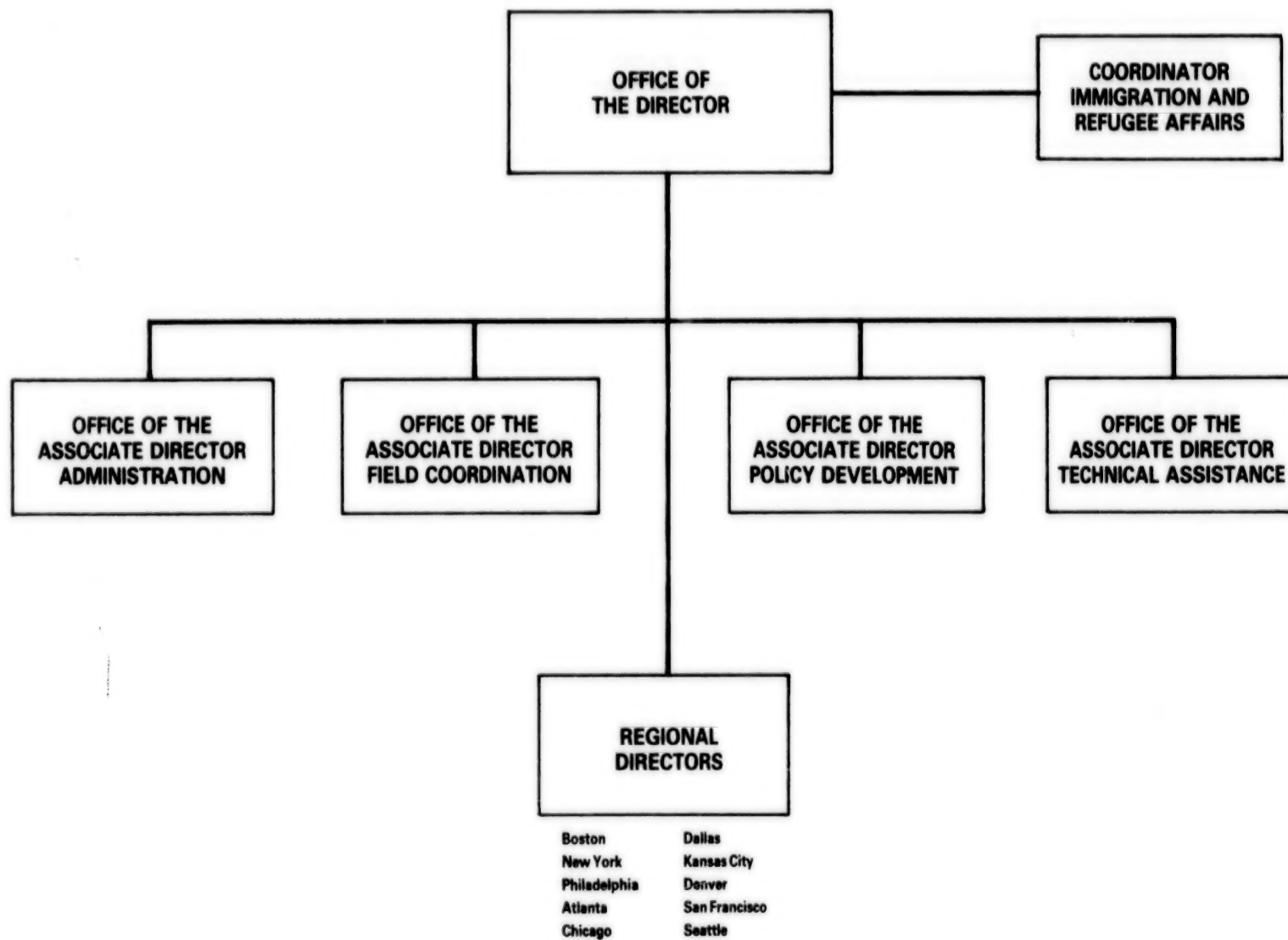
The Associate Director for Administration administers, coordinates, and supervises all CRS administrative activities, i.e., budget execution, property, personnel, fiscal management, and other usual administrative services. The Office has primary responsibility for formulation and preparation of the budget.

Regional Directors

The 10 Regional Directors supervise all conciliation and mediation, and delivery of other CRS services, in their respective regions. In addition to overseeing the day-to-day delivery of assistance to troubled communities by their staffs, they also develop and maintain liaison with public officials, and appropriate public and private organizations and agencies in their regions. Regional offices are located in Atlanta, Boston, Chicago, Dallas, Denver, Kansas City, New York, Philadelphia, San Francisco, and Seattle.

Immigration and Refugee Affairs Unit

The Immigration and Refugee Affairs Unit is responsible for all CRS activities involving the care and processing of

COMMUNITY RELATIONS SERVICE

Cuban and Haitian entrants, including program operations, policy development, and research and evaluation. The Unit also advises the Director generally on immigration matters and coordinates its activities as necessary with activities in the agency's main program area.

Management Improvements

With the introduction of its Operational Data Information System in 1979, CRS began a transition from manual to automated data processing of management information. However, until a Justice Management Division cost-benefit analysis in 1983 confirmed CRS's own finding that a minicomputer-based system would yield substantial savings, the agency had relied heavily on the Department's mainframe computer.

During Fiscal Year 1985, the agency acquired its own minicomputer and began updating its management information system. That transition, which will be completed in 1986, will result in savings in staff time and costs.

The agency also improved its management procedures in the Cuban-Haitian Entrant Program. The Immigration and Refugee Affairs Unit began computerizing information on program operations and the administration of grants to nonprofit organizations to resettle entrants. In addition, the Immigration and Refugee Affairs Unit and the Administrative Office implemented recommendations from a Justice Management Division audit survey report on improving grants administration procedures.

Program Operations

As indicated, CRS carries out its responsibilities under a two-part program structure: *Program Area I* is the Conciliation and Mediation of Community Disputes; *Program Area II* is Placement and Resettlement of Cuban and Haitian Entrants.

Program Area I has three main areas of ongoing concentration: Administration of Justice, Education, and General Community Relations. More specific priorities are established each year based on such factors as incidence of various kinds of disputes, analysis of current conditions, race relations trends, and other considerations. In Fiscal Year 1985, the agency established five priorities: reducing the risk of civil disorder; police use of excessive force; containment and reduction of racial harassment; educational policies and programs; and refugee assistance and immigration.

Program Area II has six main areas of concentration: resettlement of Cuban and Haitian entrants from Immigration and Naturalization Service processing centers, responding to conflicts arising out of police use of excessive force, responding to conflicts resulting from racial harassment, reducing conflicts over educational policies and programs, resolving disputes based on refugee and immigration issues, and research and evaluation related to adjustment-of-status proceedings for Cubans and Haitians.

Conciliation and Mediation of Community Disputes

In Fiscal Year 1985, CRS processed 1,939 alerts to serious racial-ethnic conflict; from these alerts 1,329 in-depth assessments were conducted. The result was 1,042 actual conciliation and mediation cases. A total of 650 cases were concluded during the year, leaving 392 in various stages of progress at the year's close.

Administration of Justice Cases

As usual, the most volatile disputes were the clashes between minorities and the police, especially where deaths were attributed to the unnecessary use of deadly force by the police. This was the situation, for example, in disputes that caused serious upheaval in San Mateo, California; Columbia, Missouri; and Cedar Rapids, Iowa; among other cities.

In San Mateo the black community demanded the dismissal of a police officer of Korean descent who fatally shot a black youth—a burglary suspect he was attempting to handcuff—in the back of the head. Columbia police shot and killed a black teenage girl who officers said ignored their order to stop the car she had allegedly taken without a friend's permission and tried to run over one of them. The Cedar Rapids dispute erupted after a black man died of injuries sustained while in the custody of the county sheriff's department.

There were protests of some kind in all three cities; Columbia experienced minor rock- and bottle-throwing incidents before protesters heeded local black leaders' call for calm. CRS helped public officials and community leaders avoid further escalation of tensions and establish task forces to look into underlying causes of the animosity between these cities' police forces and their minority citizens.

Sensitivity to the potentially heavy costs of liability suits was a factor in many police-citizen disputes to which the agency responded. When Portuguese community leaders in Fall River, Massachusetts, requested assistance in addressing alleged police use of excessive force, part of the CRS response was a forum on municipal liability which contributed significantly to an ultimate easing of tensions. And after Hispanic citizens in eastern New Mexico complained repeatedly of excessive force and other misconduct by police, four law enforcement agencies eventually joined with CRS in sponsoring municipal/civil liability training for 50 of the area's top police officials.

In addition, CRS intervened in a variety of other police-citizen confrontations, including:

- A case in which Konawa, Oklahoma, American Indian residents angered over alleged police abuses threatened violent retaliation against the police department. CRS's involvement led to establishment of an Indian advisory committee, creation of an ombudsman's position, and other positive developments.

- A dispute in which a black merchant group in South Central Los Angeles charged that police officers were deployed in a discriminatory manner, resulting in poorer service to non-white neighborhoods. CRS's involvement helped influence the assignment of 29 additional officers to two high-crime public housing projects, and a commitment from the city to pursue funds for 100 additional officers.
- Conflict between housing authority police and tenants of a Pittsburgh public housing project, which had resulted in some injuries and property damage. CRS conducted training in communications and conflict resolution skills for the officers.

Education Cases

School disputes to which the agency responded fell into two broad categories: those growing out of educational policies and programs, and those involving conflict between students. The former ran the gamut from controversial school closure decisions to alleged intentional resegregation of students. The latter involved violence and other disruption between different student racial groups in school districts all across the country.

Black leaders in Toledo, Ohio, requested assistance after charging that black children were being unjustly segregated into classes for low achievers. CRS helped set up talks which ultimately led to disciplinary action against some school personnel, reassignment of black and white students, and creation of tutorial programs to help students make up for lost time. The agency also sought to help resolve such disputes as when black parents in Fulton County, Georgia, marched to protest the closing of a predominantly black elementary school; and when some groups objected to mostly white Floral Park, New York, dropping out of the Sewanhaka Central High School District because of the effect on the district's student racial composition.

In response to student conflict at Kansas City, Missouri's, Northeast High School—the most racially diverse in the city—CRS helped establish a Student Response Team which successfully mediated disputes among the white, black, Hispanic, and Asian student body. The Student Response Team is a concept for involving students themselves in conflict management which has been used widely with success.

The agency worked with state departments of education on pilot projects that generated the application of increased state resources to the prevention of school violence. For example, in Washington State, the focus was on training school administrators to sharpen skills and on developing regional resource networks as a means of support. In Pennsylvania, the governor provided all school districts with copies of CRS-produced videotapes on preventing violence. In addition, at the request of the U.S. Department of Education, CRS joined security directors and other officials from

several school districts in formulating other responses to the violence problem.

General Community Relations Cases

A number of disputes involved assisting local officials and community leaders in coping with the violence, harassment, and racial hatred promoted by the Ku Klux Klan (KKK) and like-minded groups. For instance, after a black student family moved into an all-white neighborhood near Idaho State University in Pocatello and someone spray-painted KKK on their car, the family was terrified and tension began to rise in the area's minority community. A visit by a robed, California Klan leader at local meetings heightened feelings still further. Asked for assistance, CRS helped organize a biracial community task force to provide support for the victimized family and to mount a general campaign against racial harassment.

Tension reached a peak in Fontana, California—where the KKK had often held rallies and distributed hate literature—when a black youth was left paralyzed as a result of a beating by a group of white youths. CRS helped establish a human relations commission that began addressing the city's racial problems. The agency also assisted a number of cities, such as Mansfield, Indiana, with contingency planning to minimize the potential for violence after KKK rallies had been announced.

Another large category of cases dealt with disputes arising out of more general acts of racial intolerance by individuals rather than by hate groups. For example, when residents of predominantly white Southfield, Michigan, learned that a private school from the Detroit inner city had acquired an unused, local school building, they blocked the move through zoning and fire ordinance challenges and suits in federal and state courts. CRS initiated discussions which led ultimately to a peaceful resolution of the dispute. In another instance the agency helped Coudersport, Pennsylvania, officials respond to indications that black delegates would not be welcome at a religious convention meeting in the city.

Other kinds of general community conflict to which CRS responded included:

- Confrontations between indigenous groups and Southeast Asian refugees, such as in New Orleans where CRS initiated communications that reduced friction between Vietnamese residents, blacks, and the police; and in Revere, Massachusetts, where the house of one group of Cambodians was set on fire twice by unknown parties.
- Allegations of entrenched, institutional discrimination against minorities, such as in Natchitoches, Louisiana, where the agency's intervention led to formation of a biracial committee that began to address issues which had fueled negative relations between blacks and whites for years.

- Disputes between Puyallup, Nisqually, and Squaxin Island tribal fishermen and non-Indian landowners of Fox Island, Washington, that sometimes led to brandishing of weapons; CRS helped work out a voluntary agreement on practices that will be followed to avoid future disputes.

PROGRAM AREA I

Comparison of Workload Data for Fiscal Years 1984 and 1985

Activity	1984	1985
Alerts received	1,662	1,939
Assessments processed	1,297	1,329
Conciliation cases conducted	952	1,017
Conciliation cases concluded	718	637
Mediation cases conducted	22	25
Mediation cases concluded	16	13

Placement and Resettlement of Cuban and Haitian Entrants

A major area of activity under this program involves the placement of entrants from Immigration and Naturalization Service special processing centers—primarily the Krome Center in Miami—for humanitarian reasons, under exclusionary bonds, or when minors are involved. During Fiscal Year 1985, CRS increased its placement activity for entrant minors and also negotiated a Memorandum of Agreement with the Immigration and Naturalization Service which will permit CRS to provide other services to the Immigration and Naturalization Service, upon request, on a cost-reimbursable basis.

The agency also designed a new secondary resettlement program for entrants in south Florida who are in need of better housing and employment opportunities. The program differs from others in its provision of comprehensive and highly structured resettlement services for entrants willing to move to specific cities outside Florida where housing and job prospects are better.

With regard to entrants experiencing mental health problems, CRS developed programmatic guidelines for agencies interested in providing support services and followup care

for those who have completed treatment by the Public Health Service and need transitional, community-based placements. The agency made several grants in this area during the year.

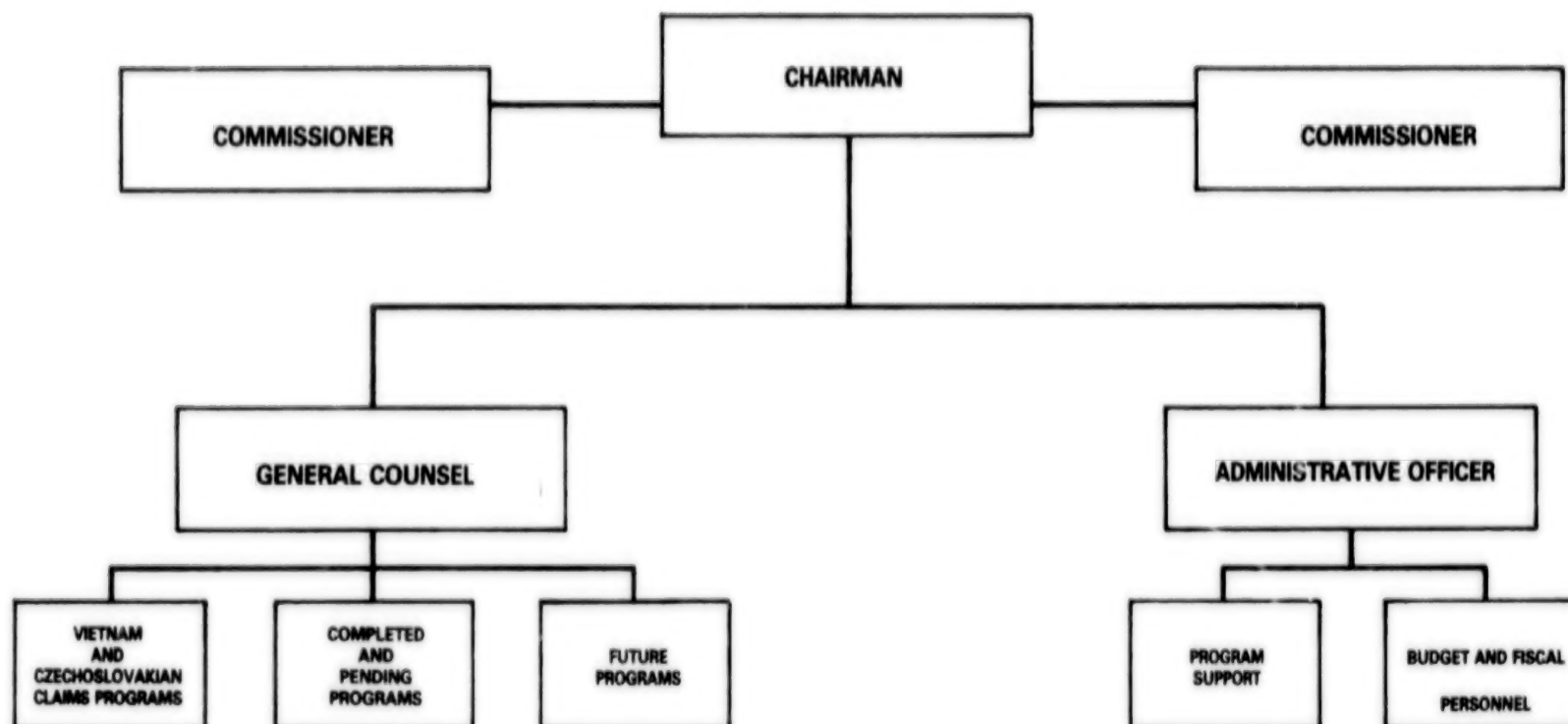
Another key area of activity in Fiscal Year 1985 was resettlement of Cubans from detention primarily in the Atlanta Federal Penitentiary. The repatriation agreement between Cuba and the United States—and its subsequent suspension—meant that CRS had to begin phasing down its work in this area and later begin planning for resumption of this role. As part of that planning, the agency also began an evaluation of this category of placements, which resulted in development of new program guidelines.

In another significant development, the Immigration and Naturalization Service began an adjustment-of-status program in Fiscal Year 1985 to permit eligible Cuban entrants to become "permanent resident aliens." CRS serves on the Cuban Adjustment Coordinating Committee, which oversees the program, and was asked to undertake an assessment of the registration phase to identify key issues relevant to a future, large-scale legalization program. This activity also provided the opportunity to collect demographic data on the Cuban entrant population, and collection and analysis of this data will continue through next year.

PROGRAM AREA II

Comparison of Workload Data for Fiscal Years 1984 and 1985

Activity	1984	1985
Entrant population:		
- Cuban-Haitian entrants in federal custody (at beginning of year)	1,409	1,755
- Arrivals and revocations of parole	1,167	1,020
- Resettlements	677	576
Grant activities:		
- Grant proposals processed	42	36
- Resettlement grants awarded	28	20
- Agencies receiving grants	22	22
- Onsite visits	65	65

FOREIGN CLAIMS SETTLEMENT COMMISSION

Foreign Claims Settlement Commission

Bohdan A. Futey
Chairman

The Foreign Claims Settlement Commission adjudicates claims of American citizens against foreign countries for the nationalization or other taking of their property. In addition to claims for the nationalization of property, the Commission also considers, under the relevant provisions of the War Claims Act of 1948, as amended, claims of prisoners of war and of civilians who were interned by hostile forces during certain periods. Payment is made for violations of the prisoners' rights as protected by the various provisions of the different Geneva conventions.

The Commission's relationship to the Department of Justice is unique. After formation in 1954, the Commission operated as an independent agency, until it was transferred to the Department of Justice on October 1, 1980 by P.L. 96-209 [94 Stat. 96, approved March 14, 1980; 22 U.S. Code 1622a]. Even after the transfer, the Chairman of the Commission continued, under the law, to have full administrative responsibility for the agency and the Chairman and two part-time Commissioners continued to have sole authority for the adjudication of claims.

It would be pertinent to point out that the work of the Commission is, in effect, largely paid for by the claimants themselves and the foreign governments against whom claims are filed rather than the taxpayers at large. Most of the programs, which specific acts of Congress authorize it to conduct, contain a stipulation that five percent of the funds utilized to make payment on losses are to be used to reimburse the United States for the appropriations granted to the Commission for expenses incurred in carrying out its work. At the end of Fiscal Year 1985, approximately \$31 million had been returned to the U.S. Treasury, which is more than the cost of operating the Commission since its formation.

The Commission consists of a Chairman, who serves on a full-time basis, and two Commissioners, who serve on a part-time basis, all of whom are appointed by the President by and with the advice and consent of the Senate. On May 3, 1984, Bohdan A. Futey was appointed Chairman. Joseph W. Brown and Frank H. Conway have served as part-time Commissioners since 1981. The Chairman and Commissioners, as a body, review claims, make their adjudications, and issue decisions.

Program Activities

During the period of this report, on February 25, 1985, the Commission completed its work with respect to the 1,619 claims filed for losses in Czechoslovakia which occurred after August 8, 1958, as authorized by the Czechoslovakian Claims Settlement Act of 1981. The Commission also continued to process claims for losses in Vietnam.

The Commission is authorized, pursuant to P.L. 96-606, to adjudicate claims for property confiscated by the Socialist Republic of Vietnam on or after April 29, 1975. During the period of this report, the Commission issued Proposed Decisions on all remaining claims which have been filed in this program and conducted oral hearings on objections to Proposed Decisions. The statutory completion date for the Vietnam Claims Program is February 25, 1986.

Legislation has been passed which would transfer to the Commission the adjudication of certain claims against Iran which are presently pending before the U.S.-Iran Claims Tribunal in The Hague and are currently being handled by the Department of State. The transfer of these claims to the Commission would be contingent upon the United States and Iran agreeing upon a lump sum settlement of this group of claims.

In addition, the Commission is aware of a number of potential claimants who may have valid claims against two countries for which programs have not yet been authorized. These involve claims against the Soviet Union for losses in those areas in Eastern Europe annexed by the Soviet Union after World War II and claims by U.S. citizens for losses in Albania.

The Commission's staff has been involved in assisting the Department of State in ongoing negotiations with the Government of the German Democratic Republic in order to obtain a lump sum settlement for awards granted to American citizens under P.L. 94-542.

By statute, the Commission is required to issue an annual report to Congress delineating in detail the adjudications of the Commission, including its major precedent decisions concerned with international law. The reports for Calendar Years 1983 and 1984 are available upon request at the offices of the Commission.

INTERPOL—United States National Central Bureau

Richard C. Stiener
Chief

The International Criminal Police Organization (INTERPOL) was founded for the purpose of promoting mutual assistance between international law enforcement authorities in the prevention and suppression of international crime. Established in 1923 and reorganized in 1946, INTERPOL's membership today numbers 138 countries, the most recent additions being the nations of Kiribati and St. Vincent and the Grenadines.

United States participation in the organization began in 1938 when Congress authorized the Attorney General to accept membership on behalf of the U.S. Government. World War II intervened, however, and INTERPOL operations were temporarily terminated. The organization was reestablished in 1946 and a year later the United States resumed membership under the jurisdiction of the Federal Bureau of Investigation.

Stating various reasons, the Federal Bureau of Investigation withdrew from INTERPOL in 1950. The Department of the Treasury, however, seeking to maintain international contacts because of its enforcement responsibilities in criminal narcotics and currency violations, continued an informal liaison with INTERPOL until 1958, at which time the U.S. Attorney General officially designated the Department of the Treasury as the U.S. representative to INTERPOL, placing complete responsibility for maintaining U.S. membership in the organization under Treasury's purview. In 1969, Treasury established the U.S. National Central Bureau (USNCB) to carry out the INTERPOL functions. Then, on January 18, 1977, a Memorandum of Understanding between officials of the two Departments established their dual authority in administering the USNCB.

In 1979, the Memorandum was amended designating the Attorney General as the permanent representative to INTERPOL and the Secretary of the Treasury as the alternate representative, and the USNCB became one of several components of the Office of the Deputy Attorney General. The USNCB continued to develop and expand, and in 1981 it was officially removed from the Office of the Deputy Attorney General and established as a separate organization of the Department of Justice.

The Memorandum of Understanding was again amended in April 1983 designating that the position of Chief of the USNCB was to be occupied by a career professional law enforcement employee of the Department of Justice or the Department of the Treasury for a term not to exceed four

years, and that the position of Deputy Chief for Investigations was to be occupied by a professional law enforcement employee of the Departments of Justice, the Treasury, or any other law enforcement agency participating at the INTERPOL-USNCB, for a four-year term. The commencement of service of the Chief and Deputy Chief for Investigations could not occur simultaneously. In addition, to ensure management and leadership continuity of the USNCB, the position of Deputy Chief for Operations and Administration was established and was to be held by a permanent Department of Justice employee.

The goals of INTERPOL, and hence the USNCB, are to promote and ensure mutual assistance between all police authorities within the limits of the laws existing in the different member countries and in the spirit of the "Universal Declaration of Human Rights." The National Central Bureau of each INTERPOL member country likewise operates within the framework and guidelines of the INTERPOL Constitution. Article 3 of the Constitution prohibits intervention in, or activities or investigations of, matters of a military, religious, racial or political character.

To guard against misuse of investigative information contained in INTERPOL files, the INTERPOL General Secretariat specifies that information provided by any member country should not be released to a non-law enforcement organization without the express permission of the country providing the information. Furthermore, written guidelines concerning the relaying of law enforcement information, drafted by the General Secretariat, have been approved by the INTERPOL General Assembly and are followed by each INTERPOL participant.

A 1982 Headquarters Agreement with the French government grants INTERPOL the authority to develop and implement regulations regarding the security and maintenance of the General Secretariat archives. And, to ensure the internal control and data protection of INTERPOL archives, the organization is currently establishing a Supervisory Board whose purpose is to review cases brought to their attention by the Executive Committee or other means. Composed of five international judges, the Board will verify that personal and investigative information contained in the General Secretariat archives is: 1) obtained and processed in accordance with the provisions of the INTERPOL Constitution; 2) recorded for specific law enforcement purposes and not used in any way that is incompatible with those purposes;

3) accurate; and 4) maintained in accordance with the criteria established by the General Secretariat. The Supervisory Board will also notify the INTERPOL Executive Committee of the results of any investigations it conducts and any modifications which must be made to the appropriate components of the organization.

As U.S. liaison to INTERPOL, the USNCB functions as the primary conduit for maintaining law enforcement communications between this country, other INTERPOL member countries, and the INTERPOL General Secretariat. Through the National Law Enforcement Telecommunications System, the USNCB also serves as the communications link between the more than 20,000 U.S. federal, state and local police agencies and the National Central Bureaus of other INTERPOL member countries. Requests for investigative information received by the USNCB include those pertaining to crimes of violence including terrorism, murder, robbery, large scale narcotics, fraud and counterfeiting violations. Cases often involve arrests and extraditions to the countries where the crimes were committed. Requests for information are also made regarding criminal history backgrounds, license checks, and information of a humanitarian nature. In addition, INTERPOL and the USNCB can assist foreign and domestic police organizations in tracing weapons, stolen works of art, and/or locating witnesses to interview for investigative purposes. These activities represent the primary, but not the complete, range of activities undertaken by the USNCB.

The USNCB Quality Control Unit reviews all incoming requests for compliance with INTERPOL and USNCB regulations prior to opening a case. All requests must: 1) come from a legitimate domestic law enforcement agency or an INTERPOL member country; 2) be an international investigation; 3) be a violation of U.S. federal or state law, as well as a crime in the country involved; 4) be in compliance with the INTERPOL Constitution; 5) show a link between the crime and the subject of the case; and 6) contain a clear reason indicating the type of investigation and the fullest possible identifying details of the subject. If this information is not stated, the requestor is contacted for additional information before an investigative case is initiated by the USNCB.

In addition, before any information can be released, a written verification of the request is required. Senior investigative agents coordinate the release of information in accordance with carefully established policies and guidelines. Before a case is closed, it must be reviewed by an Assistant Chief to ensure that the case was handled appropriately and within the guidelines and procedures delineated in the USNCB Investigations Manual.

For operational, analytical, and administrative matters, the staff of the USNCB consists of 69 permanent, detailed and temporary employees. In addition, the USNCB func-

tions through the collaborative efforts of the 13 participating federal law enforcement agencies, which include the Federal Bureau of Investigation; the Drug Enforcement Administration; the Immigration and Naturalization Service; the Criminal Division; the U.S. Customs Service; the U.S. Secret Service; the Internal Revenue Service; the Bureau of Alcohol, Tobacco, and Firearms; the Office of the Comptroller of the Currency; the Federal Law Enforcement Training Center in Glynco, Georgia; the Department of Agriculture's Office of the Inspector General; the U.S. Postal Inspection Service; and the U.S. Marshals Service.

A critical element of the structure and success of INTERPOL is its network of communications between member countries and the General Secretariat. Currently there are 72 INTERPOL member countries, including the General Secretariat, on the INTERPOL radio network; the remaining member countries may be reached via international telex or cable. In an effort to maintain the most efficient communications among all member countries, a Standing Committee on Information Technology was created in June 1984 for the purpose of upgrading equipment and expanding the INTERPOL communications network. Satellite communication is being studied as an effective alternative to the existing system. Additionally, an automatic message switching system at the General Secretariat is scheduled to begin operation in July 1986, which will greatly enhance the transmission of the more than 500,000 international messages currently being relayed each year. In order to ensure secure communications, five European countries have encrypted their systems and it is anticipated that the other countries on the radio network will be secured by January 1987.

The number of new cases opened during Fiscal Year 1985 was 11,100, an increase of 31 percent over the Fiscal Year 1984 total of 8,492. In addition, further implementation of the INTERPOL Case Tracking System, enabled the USNCB to close 10,424 cases during Fiscal Year 1985, an increase of 258 percent over the previous year's total of 2,910. Investigative matters not resulting in case openings numbered 667 with an additional 341 being declined because they did not meet USNCB criteria or deferred pending receipt of additional information.

It should be noted that these figures only partially reflect the full range of activities conducted at the USNCB. The Administrative and Special Projects Unit handled approximately 1200 non-investigative matters. These include requests for information about INTERPOL and the USNCB from both foreign and domestic law enforcement agencies, the media, and the general public; requests from INTERPOL member countries for information about various law enforcement topics; the processing of administrative requirements pertaining to budgetary justifications and financial operations; personnel actions; property

and procurement requirements; and the preparation and processing of all special and routine reports required by the Department of Justice, the Office of Management and Budget, and the Congress. Of this number, more than 150 represented Freedom of Information Act and Privacy Act requests.

The detailee from the Federal Law Enforcement Training Center is also assigned to the Administrative and Special Projects Unit and is presently developing a training curriculum on the INTERPOL-USNCB and INTERPOL programs to be used at the Federal Law Enforcement Training Center, primarily for the state and local law enforcement communities. In addition, a working relationship has been established with representatives from seven INTERPOL member countries and initial contact made with representatives from five others to explore opportunities for exchanging training information. The Federal Law Enforcement Training Center detailee has also coordinated attendance at more than 30 conferences and symposia, handling all necessary arrangements for foreign law enforcement officials as well as U.S. officials abroad.

In early Fiscal Year 1985, a Task Group was formed to plan and execute the activities involved in the United States hosting the 54th General Assembly Meeting of INTERPOL member countries. This event, scheduled for October 1-8, 1985, was particularly significant for the United States and the USNCB since this marked the first time in 25 years that the United States had hosted the event and, for the first time in the organization's history, an American serves as President. The Task Group consisted of 31 full-time employees detailed from federal agencies plus approximately 75 detailees who were brought on board during the final two weeks. As the result of a major fund-raising effort conducted by the Task Group, approximately \$485,000 in private sector contributions were received to assist in keeping the government's financial contribution to a minimum. Attorney General Edwin Meese was official host for many of the activities and Deputy Attorney General D. Lowell Jensen served as Head of the U.S. Delegation.

The public relations requirements for the General Assembly were handled by the USNCB, another significant "first" for the United States in light of the fact that previous General Assembly host countries had never prepared documentation for distribution to members of the media and the general public. These tasks were an extension of the public relations function implemented at the USNCB in 1984 to deal with the publicity generated by the election of the first American as President of INTERPOL. Documentation included articles for journals and magazines dealing with previous General Assembly sessions and INTERPOL's position on terrorism, press releases, position papers on INTERPOL's program areas, the history of INTERPOL, and a summary of the INTERPOL function. Also included

was a Research Report prepared with the assistance of the National Institute of Justice, Office of Justice Programs.

During 1985, the USNCB pursued plans to install automated translation equipment. When fully implemented in 1986, the equipment will enhance the USNCB's translation capabilities by providing rapid rough-draft translations of incoming and outgoing messages relating to criminal investigative reports and analyses. This equipment will also enable the rapid translation of all INTERPOL-USNCB case-related documents both from and into the official INTERPOL languages, French and Spanish, as well as translation of working papers and statements expressing the United States position at conferences, regional working party meetings, and future General Assembly meetings.

The international stolen artworks program continues to circulate information on stolen works of art and, since January 1985, the USNCB has been recording statistics showing thefts as well as the recovery of stolen art. Figures for 1985 indicate an increase in the number of items recovered which had been reported through INTERPOL channels. INTERPOL recently established an international committee to research and recommend a standardized system of computerization for the international tracing of stolen art objects. Various systems already in existence are being studied in an effort to develop a comprehensive system that will be most compatible to all. In addition, preparations have been made for the installation of a laser disk system at the USNCB which will provide an image of the artwork to coincide with the computerized data.

The USNCB's international terrorism and organized crime program, established in 1983, has assumed greater significance as a result of increases in these areas of international criminal activity. Resolutions approved at the INTERPOL General Assembly in 1984 categorize international terrorist activity as a law enforcement rather than a political matter and establish parameters enabling the member countries, for the first time, to exchange information regarding terrorist matters. Furthermore, an August 1985 meeting of experts, coordinated by the INTERPOL General Secretariat, developed a proposal to establish a separate Anti-Terrorist Unit at the General Secretariat to coordinate international interest in this growing concern. Further resolutions passed during the 54th General Assembly Meeting in Washington, D.C., will be addressed in the annual report for Fiscal Year 1986.

The Economic and Financial Crime Unit, created at the USNCB in 1984, has been expanded to include an additional detailee from the U.S. Customs Service and additional analytical support for the collection, analysis and dissemination of financial information to more effectively address this area of international criminal activity. Investigative and analytical work includes counterfeiting, computer fraud, concealment of assets, to mention just a few. In this regard,

the USNCB was instrumental in forming the American Regional Working Party which has met twice to address the problems of off-shore banking and money laundering schemes taking place in the Americas. Model legislation, drafted by the Working Party and scheduled for presentation to the 54th General Assembly Session, would permit police access to bank records on accounts derived from criminal activity and seizure of their proceeds. Some INTERPOL member countries are already beginning to draft legislation based on this prototype.

The Fugitive Unit, established in 1983, has been expanded and renamed the Alien/Fugitive Enforcement Unit. In conjunction with other federal, state, and local law enforcement agencies, this Unit not only coordinates the identification, location, and return of internationally wanted fugitives, but also strengthens existing measures that permit the arrest of fugitives or the exclusion of undesirable aliens at border points before actual entry into the country. Specifically, the Unit is working with the Department of State's AVLOS system to incorporate information about internationally convicted criminals as well as fugitives. This would further improve the screening process for granting or denying U.S. visa requests. In addition, the Federal Bureau of Investigation's National Crime Information Center system will be adding information on international fugitives for the first time. This will augment efforts to locate international fugitives having managed to enter the United States and will assist the federal, state, and local police agencies who utilize the National Crime Information Center. It should be noted that fugitive investigations as well as financial/fraud crimes are frequently related to international drug trafficking. Im-

proving these law enforcement programs will contribute to a more effective international drug trafficking program.

The USNCB's international drug trafficking program currently provides the Drug Enforcement Administration with information on U.S. nationals arrested abroad who have not yet been entered into the Drug Enforcement Administration's Narcotics and Dangerous Drugs Information System, as well as information on drug seizures made outside the United States but destined for this country. This type of information is gleaned from operational reports received from other National Central Bureaus and from the General Secretariat's computerized system, which is capable of providing a wide variety of data, including types of concealment, routing, nationality and frequency of particular modus operandi, etc. The USNCB can be a valuable tool for the domestic law enforcement community since it is the only channel through which they can obtain drug trafficking information compiled from reports submitted by INTERPOL's member countries and maintained in the records and files of the General Secretariat.

A new INTERPOL Files Accountability and Control System will be implemented in December 1985. Each case will be bar coded in an attempt to track the movement of each file within the office as well as pinpoint the exact location of any file at any given time. This will provide the capability of linking correspondence to a particular case in a much shorter time period, thus alleviating some of the delays in responding to investigative requests. It will also provide information concerning files which have not seen any action within a certain time period and therefore can be reviewed for closure.

Recipients of Attorney General Awards at the 35th Annual Department of Justice Awards Ceremony

Attorney General's Award for Exceptional Service

John L. Martin
*Chief, Internal Security Section
Criminal Division*

Attorney General's Award for Exceptional Heroism

Jeffery L. Everly
*Border Patrol Agent
Immigration and Naturalization Service*

Attorney General's Distinguished Service Awards

Virginia B. Baldau
*Special Assistant to the Assistant Director
National Institute of Justice
Office of Justice Programs*

William M. Cohen
*Assistant Chief, General Litigation Section
Land and Natural Resources Division*

Danny O. Coulson
*Assistant Special Agent-in-Charge
Washington Field Office
Federal Bureau of Investigation*

Robert N. Ford
*Former Deputy Assistant Attorney General
Civil Division*

Joseph R. Greene
*Deputy District Director
Portland, Oregon, District Office
Immigration and Naturalization Service*

Richard D. Gregorie
*Assistant United States Attorney
Southern District of Florida*

Daniel G. Knauss
*Assistant United States Attorney
District of Arizona*

Janice Mathews-Stromsem
*Deputy Chief for Operations and Administration
INTERPOL—United States National Central Bureau*

Albert R. Matney
*Chief, Witness Security Division
United States Marshals Service*

Kenneth J. Maxwell
*Supervisory Special Agent
Criminal Investigative Division
Federal Bureau of Investigation*

Albert R. Murray, Jr.
*Assistant United States Attorney
Middle District of Pennsylvania*

John Marshall Awards

Trial of Litigation

William C. Hendricks III
*Deputy Chief, Public Integrity Section
Criminal Division*

Jane W. Moscovitz
*Assistant United States Attorney
Southern District of Florida*

Participation in Litigation

Daniel A. Clancy
*Assistant United States Attorney
Western District of Tennessee*

Donald E. Jose
*Assistant Director, Torts Branch
Civil Division*

Support of Litigation

Sandra P. Spooner
*Assistant Branch Director
Commercial Litigation Section
Civil Division*

Robert I. Van Heuvelen
*Senior Trial Attorney
Environmental Enforcement Section
Land and Natural Resources Division*

Handling of Appeals

Peter R. Steenland, Jr.
*Chief, Appellate Section
Land and Natural Resources Division*

Sanford Svetcov
*Assistant United States Attorney
Northern District of California*

Providing Legal Advice

Craig O. Raynsford
*Associate General Counsel
Immigration and Naturalization Service*

Preparation of Legislation

Jack E. Perkins
*Legislative Counsel
Office of Legislative Affairs*

Interagency Cooperation in Support of Litigation

Michael C. Eberhardt
*Assistant Inspector General
Department of Defense*

Attorney General's Award for Excellence in Law Enforcement

Fred Stevens
*Supervisory Border Patrol Agent
Immigration and Naturalization Service*

Thomas L. Thompson
Special Agent
Drug Enforcement Administration

Attorney General's Award for Equal Employment Opportunity

Wayne G. Davis
Former Special Agent-in-Charge
Detroit Division
Federal Bureau of Investigation

Attorney General's Award for Upward Mobility

Don S. Tokunaga
Former Section Chief, Laboratory Division
Federal Bureau of Investigation

**Attorney General's Award
for Outstanding Service to the
Department of Justice Handicapped Employees**

Michael D. McFarlin
Former Sign Language Interpreter
Identification Division
Federal Bureau of Investigation

Meritorious Public Service Award

J. Willard Marriott
President
Marriott Corporation

Attorney General's Awards for Excellence in Legal Support

Paralegal Category

Randy J. Davis
Paralegal Specialist
United States Penitentiary - Marion, Illinois
Federal Bureau of Prisons

Gail Mason
Supervisory Paralegal
Environmental Enforcement Section
Land and Natural Resources Division

Legal Secretary Category

Patty L. Mayhew
Secretary
Commercial Litigation Branch
Civil Division

Michelle Lee Sirna
Secretary
General Litigation Section
Land and Natural Resources Division

**Attorney General's Awards
for Excellence in Administrative Support**

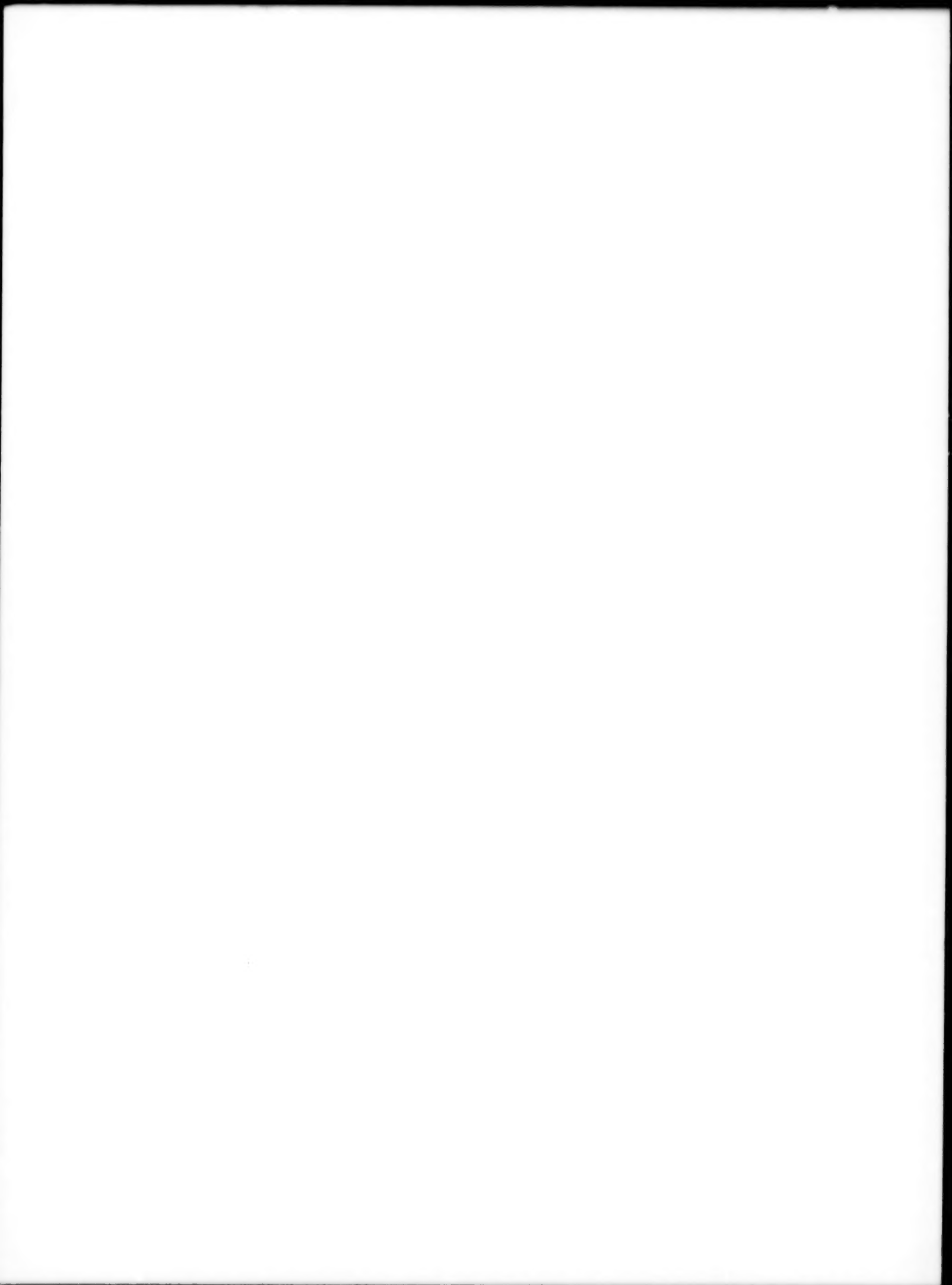
Administrative Category

Elizabeth W. Dewland
PROMIS Manager
Office of the United States Attorney
District of Arizona

Secretarial Category

Mildred C. Parsons
Secretary, Washington Field Office
Federal Bureau of Investigation

Valerie F. Smith
Former Secretary
Executive Office
Land and Natural Resources Division



END

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